



**Heidelberg Papers  
in South Asian  
and Comparative Politics**

**Managing Diversity: Power-sharing or Control?  
A Comparison between India and Sri Lanka**

by

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Working Paper No. 70

**December 2012**

South Asia Institute  
Department of Political Science  
Heidelberg University



**HEIDELBERG PAPERS IN SOUTH ASIAN AND  
COMPARATIVE POLITICS**

**ISSN: 1617-5069**

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# Managing Diversity: Power-sharing or Control? A Comparison between India and Sri Lanka<sup>1</sup>

Radu Carciumaru <sup>2</sup>

## ABSTRACT:

*Based on the case studies of India and Sri Lanka, the paper combines conceptual and empirical findings on power-sharing arrangements as a key to conflict management in deeply divided, post-colonial societies. The two countries were chosen because of the similarity of their ethnopolitical conflicts but also because of their differences in conflict management practices and outcomes.*

*For the case study on India, I argue that by applying power sharing principles the conflicts resulting from demands of minorities, such as homeland and linguistic recognition, were met through provisions based on the principle of segmental autonomy; demands for proportional representation in political decision-making were met through the specificity of “centric-regional” parties and through policies of reservation; whereas demands for security, such as preservation of cultural identity were met through segmental autonomy as well as formal and informal blocking rights.*

*Conversely, Sri Lanka was originally blessed with favorable conditions at independence, but sub-optimal political choices after independence turned “milder ethnic conflict” into a protracted civil war. I argue that a policy based on a majoritarian control system was at the root of the ethnic conflict in Sri Lanka.*

*Two interrelated claims are advanced. Based on the consociational approach, 1) in a deeply divided society, conflict regulation can be achieved only through adoption of power sharing arrangements; and based on the majoritarian “control” approach: 2) in a deeply divided society majoritarian practices will exacerbate rather than regulate a conflict.*

*Keywords: deeply divided societies, conflict management, consociationalism, control system, elites*

## CONCEPTUAL FRAMEWORK

The central theme of the article is predicated on the assumption that *power-sharing arrangements are the most appropriate and successful conflict-regulating practices* for plural and deeply divided societies. It advances two hypotheses: 1) *in a plural/deeply divided society conflict-regulation can be achieved only through*

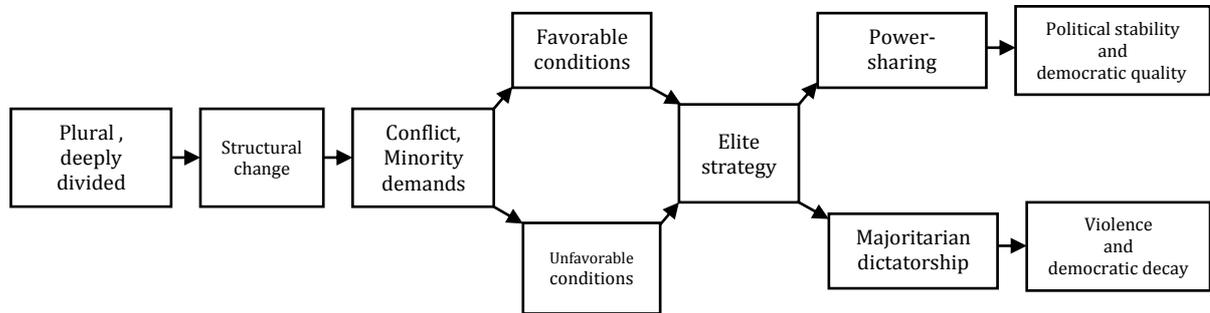
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<sup>1</sup> An earlier version of the paper was presented at the Fifteenth Annual World Convention of the Association for the Study of Nationalities (ASN), held at Columbia University in the City of New York, April 14-16, 2011. I would like to thank the Heidelberg University Graduate Academy for a grant to participation in the conference. I am grateful to Subrata K. Mitra for his valuable comments and suggestions on this version. I would also like to thank Karl Cordell, Jivanta Schöttli, Stefan Wolff and two anonymous reviewers for their critical engagement with the earlier draft.

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adoption of consociational<sup>3</sup> arrangements; and 2) in a plural/deeply divided society majoritarian practices will exacerbate rather than regulate a conflict. The following model underpins both hypotheses (Figure 1):

Figure 1. A composite model for conflict regulation in plural societies<sup>4</sup>



According to the composite model of conflict-regulation in plural societies, elite agency is crucial in accommodating the demands of ethnic minorities in search for equal opportunities and a share of power. Favorable conditions help moderate the strategies of the assertive segmental leaders, causing them to adopt a more balanced stance.<sup>5</sup> Ideally, favorable conditions should enable the stakeholders (leaders) to regulate the conflict in its early stages, avoiding its brutal escalation.<sup>6</sup> The conditions could be categorized into structure-oriented and actor-oriented (Schneckener 2002: 211– 17) as shown in the following Table (Table 1):

Table 1. Conditions favoring power-sharing<sup>7</sup>

Structure-oriented conditions	Actor-oriented conditions
1. No majority segment	9. Dominant elite <sup>8</sup>
2. Segments of equal size	10. External pressure
3. Small number of segments	11. Traditions of accommodation
4. Small population size	12. Absence of special rights claim
5. Socio-economic equality	13. Comprehensive participation
6. Overarching Loyalty	14. Respect for status quo
7. Geographical concentration of segments	
8. Moderate pluralism	

The arrangements that will be analyzed are based on the four basic principles of consociational democracy<sup>9</sup> as follows: 1) executive power-sharing, i.e., *grand*

<sup>3</sup> In my paper, I equate the term consociation with power sharing, using both of them interchangeably. I am aware that it represents a restrictive view-point, given that other forms of power sharing exist, i.e., integrative power sharing propagated by Horowitz (1985, 2000); see Sisk, 1996.

<sup>4</sup> This is a composite model based on the “neo-institutional model of democratic change” (Mitra 1999, 2005), weak/strong state vs. accommodating/unaccommodating elite framework in solving self-determination movements (Kohli, 1997), as well as the schematic presentation of principal propositions of consociational theory (Lijphart 1985, p. 120).

<sup>5</sup> The ‘power’ of power-sharing is that it works in both favorable and unfavorable conditions.

<sup>6</sup> A large variation in the lists of favorable conditions can be found, which can be explained partly by the detection of new empirical cases and partly by the discussion of these factors by other scholars.

<sup>7</sup> Based on the findings of Andeweg (2000), Lijphart (1985, 1996), Schneckener (2002), Steiner (1981).

<sup>8</sup> ‘Dominant elite’ represents a condition that is implicitly advanced by Lijphart (1985, 1996), whereby political leadership is able to control and to persuade its support base.

*coalition*; 2) *segmental autonomy*, i.e., both symmetrical and asymmetrical federalism; 3) the principle of *proportionality*; and 4) *mutual veto*, i.e., minority blocking rights. The principles will be empirically tested, in terms of success or failure, based on such needs and demands of minorities (ethnic groups) as *homeland*, (i.e., segmental autonomy - territories with no state of their own that are sufficiently well organized and can articulate their demands politically, their minority status is converted to a majority status); *linguistic recognition*, *reservations*, and *security*.

Generally, consociational systems are characterized by institutions that facilitate cooperation and compromise among political leaders, maximizing the number of “winners” in the system to the extent that separate communities can peacefully coexist within the common borders of a state (Norris 2002: 207). The “control” approach, developed by Ian Lustick (1979: 325-44), is another strategy for solving the puzzle. It begins with the assumption advanced by Alvin Rabushka and Kenneth Shepsle (1972) that plural societies cannot develop as stable democracies, but through “the dominant majority configuration.” This approach is characterized by “infrequent ethnic cooperation, immoderate ethnic politics at the expense of minority groups at the constitutional as well as the policy level, and eventual repression of minority political activity. Majoritarianism is the cause of the dominant community and electoral machination is its method of preserving its dominance” (Rabushka and Shepsle 1972: 141-142). Basically, the authors argue that a stable democracy in a divided society is possible to have in the absence of consociational arrangements, by means of a system of control. The conceptual distinctions between consociational and control approaches are shown in Table 2 below:

Table 2. Control vs. Consociational System (Lustick 1979)<sup>10</sup>

Criteria	Consociational System	Control System
<i>Effective govern of the authoritative allocation of resources</i>	The common denominator of the interests of segments as perceived and articulated by their respective elites	The interest of the majority segment as perceived and articulated by <i>its</i> elite.
<i>Linkages between the two sub-units or segments</i>	Political or material exchanges: negotiations, bargains, trades, and compromises.	Penetrative in character: the majority segment extracts what it needs from the minority segment and delivers what it sees fit.
<i>The significance of bargaining</i>	Hard bargaining between elites as a necessary fact of political life; bargains are concrete signs that consociationalism is operating successfully.	No bargaining between elites of the majority and minority segments. It would signal the breakdown of control as the means by which the political stability of the system is being maintained.
<i>The role of the State (i.e. civil service bureaucracy, law enforcement agencies,</i>	Consociational societies develop regimes that are in the nature of "umpires." <sup>11</sup> The official regime must translate the	Official regime as legal and administrative instrument of the majority segment or group. <sup>12</sup>

<sup>9</sup> For a brilliant overview of consociational democracy and examination of the arguments set forth by advocates and critics of consociationalism, see O’Leary 2005, pp. 3–43.

<sup>10</sup> Lustick, Ian S. 1979. “Stability in Deeply Divided Societies: Consociationalism Versus Control”, *World Politics*, 31(3), pp.330-2.

<sup>11</sup> “Most of an umpire's time is spent in seeing that the existing rules are obeyed and that deviant competitors are brought back into line. But the role also includes modifying the existing rules and even making new rules to cope with unanticipated disorders which may break out in the arena. But his goal is always the preservation of that arena.” In Lustick 1979, p. 330.

<sup>12</sup> “The bureaucratic apparatus of the state, staffed overwhelmingly by personnel from the majority segment, uses what discretion is available in the interpretation and implementation

the courts, the public educational system, and the armed forces)	compromises reached between elites into appropriate legislation.	
<i>The type of normative justification for the continuation of the political order</i>	The political status quo is likely to be legitimized by general references to the common welfare, and by specific warnings of the consequences, for each segment, of consociational breakdown.	Legitimacy is reached by an elaborate and well-articulated group-specific ideology (i.e. master narrative).
<i>Visual metaphor</i>	“a delicately but securely balanced scale”	“puppeteer manipulating his stringed puppet”

The focus of the current investigation is on comparison of two cases: India and Sri Lanka. They were chosen because of the similarity of their ethno-national conflicts but also for their different conflict-management practices and outcomes. The comparative study was conducted on a national-level aggregation of policy implementation regarding conflict-regulation following the “structured, focused comparison” method.<sup>13</sup>

In the case of India, I will argue that due to consociational arrangements adopted, e.g. constitutional safeguards for religious minorities by means of balancing contradictory principles of equal citizenship with collective rights; or redrawing of state boundaries leading to the emergence of the ethnic states; India succeeded in managing the conflicts emerged after independence, accommodating both the demands of ethnic groups and assertive minorities.

In the case of Sri Lanka, I will argue that despite the far more favorable conditions at independence, the government failed to peacefully manage the fairly mild political conflicts and accommodate minority assertiveness, primarily because of the majoritarian control system strategy pursued by the elites - a strategy of making Sri Lanka a unitary, centralized, “melting pot” state. Sri Lanka’s case effectively demonstrates Lijphart’s assertion that for plural societies the political choice is not between majoritarian and consociational democracy but between consociational democracy and no democracy at all (Lijphart 1977: 238). The case also confirms how easily majoritarian democracy can degenerate into majority dictatorship.

The cases are temporally diverse. Concerning India, I “flesh out” the events from Independence till the present day. As to Sri Lanka, I handle the events from Independence till 1983. Current issues and future prospects on conflict regulation in India and Sri Lanka will be addressed in the concluding part of the paper.

## MANAGING DIVERSITY

India, perhaps more than any country in the world, exemplifies democracy and diversity. India—an allegedly Hindu majority country—in its over sixty years of independence has had four Muslim<sup>14</sup>, a Sikh (Zail Singh), and a former untouchable

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of official regulations to benefit the segment which it represents at the expense of the minority segment,” in Lustick 1979, p. 330.

<sup>13</sup> The method is “focused because it deals selectively with only certain aspects of the historical case,” i.e., specifically those aspects that have theoretical relevance; and it is “structured” because it employs general questions to guide the data collection and analysis in that historical case. See Mahoney, James. 2004. “Structured, Focused comparison” in Lewis-Beck, Michael S., Bryman, Alan and Tim Futing Liao (eds.) *The Sage Encyclopedia Social Science and Research Methods*, London: Sage, p.1098.

<sup>14</sup> Zakir Hussain, Muhammad Hidayatullah, Fakhruddin Ali Ahmed and Abdul Kalam.

(Dalit K.R. Narayanan) as presidents. Currently, the Head of State is a woman, the Prime minister is a Sikh, and both a woman and a Christian are united in the person of Sonia Gandhi - chairperson of the ruling coalition UPA and for many, the most powerful leader of the government without actually holding a post in it. Moreover, India officially celebrates 5 Hindu national holidays, but also 4 Muslim, 2 Christian, 1 Buddhist, 1 Jain and 1 Sikh holiday in recognition of its diversity (Pandey 2006: 90). At first glance, minorities seem to be accommodated and integrated in India's democracy.

However, many scholars, political scientists, and area specialists have described democracy in India as a paradox, miracle or conundrum<sup>15</sup>. Aside from a short *intermezzo* during the Emergency years (1975-1977), albeit equally important<sup>16</sup> for its democratic institutions, India has been a democracy for over 60 years. The problems facing the country then and now are serious and grave, ranging from the insurgencies (Naxalites) and cross-border terrorism, separatist and secessionist struggles (Tamils, Sikhs, Nagas, Mizos, Kashmiris etc.) to atrocities against minorities, discrimination based on caste prejudice, as well as corrupted and criminalized politicians and police.<sup>17</sup> Their problems notwithstanding, India's democracy is rooted in the identity of its citizens who cherish *their* achievement of being called the "world's largest democracy".

In describing the nature of leadership in democracies, particularly India's democracy, Guha (2007) pointedly reached the following conclusion: "In India, the sapling [of democracy] was planted by the nation's founders, who lived long enough (and worked hard enough) to nurture it to adulthood. Those who came afterwards could disturb and degrade the tree of democracy but, try as they might, could not uproot or destroy it" (Guha 2007: 745).

The myriad of problems emerging from India's diversity, which Nehru famously dismissed as "fissiparous tendencies," have found at both the state and national level different solutions and strategies, ranging from repression, in the words of a senior IPS officer, "hit them over the head with a hammer, then teach them how to play the piano"<sup>18</sup> to power sharing, thus transforming "the rebels into stakeholders," resulting in accommodation and political integration.<sup>19</sup>

Ironically, one of the fiercest critics of consociationalism –Paul Brass– asserted that India's success in managing the conflicts and accommodating both the demands of ethnic groups and assertive minorities that emerged after independence was due to consociational arrangements.<sup>20</sup> To extend Brass's statement, whenever a conflict

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<sup>15</sup> "even sensational displays of Hindu Nationalism, civil war in Kashmir, and unending insurgency did not dislodge India from relatively high-capacity democracy. We might regard India either as a miracle or as conundrum." in Tilly, 2007, p. 54. Some of them have not given India's democracy even a fair chance to survive, see: Harrison, Selig S. 1960: *India: The Most Dangerous Decades*, Princeton University Press.

<sup>16</sup> By voting Indira Gandhi out of the office, India showed its commitment both to democracy and to the intrinsic value of its institutions.

<sup>17</sup> "Among nearly 5,000 candidates in the current election [n.b. *the general elections of 1998*], hundreds are gangsters and criminals, men and women awaiting trial or already convicted but free on bail for crimes like murder, kidnapping and blackmail," in Burns, John F.: *The World; The Front-Runner in India Is Deep Doubt*, New York Times, March, 1998.

<sup>18</sup> Quoted in Cohen, 2001, p. 113.

<sup>19</sup> See Mitra & Singh, 2009.

<sup>20</sup> India "has adopted many consociational devices, some permanently, some temporarily, to deal with interethnic conflicts and centre-state conflicts as they have arisen", Brass 1991: 343.

emerged, it was managed by means of a consociational practice in terms of constitutional and policy engineering.

Compared to India, Sri Lanka's road to independence began with far less turmoil. There were no such issues as balkanization of the country, e.g., such as secessionist movements as Dravida Nadu in South India. However, despite the favorable conditions analyzed below, Sri Lankan state policy, through enactment of language, employment, land settlement, and other policies gave rise to Tamil nationalism with its own claims to a "traditional Tamil homeland," the demand for a separate state in the north and east of the island, the rise of militancy, the LTTE, and the devastating ethnic war. These conditions consequently caused the disintegration and de facto partitioning of the Sri Lankan state.

The Constitution of 1948 established a Westminster style two-tiered parliamentary system of government comprising a Senate and a House of Representatives. From 1948 to 1956, minority issues were well into the fore in the first phase of the Sri Lankan political development. The governments of this period espoused an "integrative secularism" (Jayasuriya 2005: 8-10) based on an alliance between the elite of the dominant and minority groups, all of whom were drawn from urban, western educated classes. This was a period of responsive cooperation between two western educated groups best described as "elite accommodation," with common interests in maintaining relative peace and stability.

Despite the fact that at independence 70% of the population was Sinhalese and 22% were Tamil, no riots occurred or any form of collective violence between Sinhalese and Tamils "for hundreds of years before Independence" (Stepan 2006: 1-2). Wilson observed that "the consociational that could have cemented the foundations of a pluralist democratic society disintegrated in stages" (Wilson 1988: 34).

A policy based on the majoritarian control system was at the root of the ethnic conflict. The Westminster style form of parliamentary democracy introduced Sinhalese nationalists to an elementary principle of the democratic rule, which was understood to be the collective and general will of the ethnic-religious majority. Any deviation from the unitary state model was believed to endanger the unity, sovereignty, territorial integrity, and security of the entire state of Sri Lanka. Thus, in the second phase, particularly from 1956 to 1983, the very aggressive nation state policies resulted in constructing two warring aspirant nation states in one state.<sup>21</sup>

In reaction to the Sinhalese majoritarian practices, the Tamil minority had begun to articulate demands for power sharing since early 1950s. The argument was based on the fact that the state of Sri Lanka was the home of two nations: Sinhalese and Tamil. Tamil leaders argued that if two nations were to peacefully coexist in a single state, sovereignty and state power should be organized on the principle of federalism.

The third phase began in 1983 and represented the start of a long and bloody civil war between the Government of Sri Lanka and LTTE (which by then emerged as the 'sole spokesman' of Tamil community). After a series of unsuccessful peace efforts, including the inglorious involvement of Indian Peace Keeping Force (1987-1990) and controversial Sri Lanka Monitoring Mission (2002-2008), Sri Lanka's President Rajapaksa started a decisive campaign of final annihilation against LTTE

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<sup>21</sup> "There were many more Sinhalese votes to be had by being extreme than there were Tamil votes to be had by being moderate." remarks Horowitz, 1989, p. 26.

in 2005, successfully completing it by May 2009. The end of war surely presents a window of opportunity to accommodate the demands of ethnic minorities through consociational power sharing arrangements.<sup>22</sup> However, the paper focuses on the emergence and escalation of the ethnic conflict as well as radicalization of Tamil minority.

### *Constitutional provisions*

#### **a. India**

According to Weiner (1989), "India contains such a medley of religious, caste, and linguistic groups that the sense of belonging to a minority depends upon where one lives, how much power and status one has, and one's sense of community threat," he continues by stating "[...] to regard oneself as part of minority in India is to suggest that one ought to take group action to remedy one's situation. To declare one's group a minority is, therefore, a political act" (Weiner 1989: 101-102).

The word minority is not defined in the constitution of India. However, the word appears in some Articles – 29 to 30 and 350A to 350 B. The 1992 National Commission for Minorities Act also avoids such a definition. Nonetheless, under this Act the government issued a list of minority groups, which included all religious groups (Muslims, Christians, Sikhs, Buddhists and Zoroastrians)<sup>23</sup> except Jains who were added at a later date.

In terms of political rights, the Constitution of India adopted two methods for protecting the minorities: (1) the guarantee of what might be described as negative quality, which protected them from the possibility of discriminatory treatment, and (2) the guarantee of positive rights, also known as affirmative actions, to members of minority groups.

Some of the special provisions of the Constitution are as follows<sup>24</sup>: *Article 14* confers equality before law; while *Article 15* prohibits discrimination on grounds of religion, caste, sex or place of birth; it permits the State to make "any special provisions" for women, children, "any socially and educationally backward class of citizens," and Scheduled Castes and Scheduled Tribes. *Article 16* provides equality of opportunity in matters of public employment, while enabling the State to make provisions for the reservation in appointments of posts in favor of "any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State". *Article 15* refers to "any socially and educationally backward class of citizens" and the Scheduled Castes and Scheduled Tribes without qualifying backwardness with social and educational attributes and without a special reference to Scheduled Castes/Scheduled Tribes, whereas *Article 16* refers to "any backward class of citizens". *Article 17* abolishes "untouchability." Under the freedom of religion provision, *Article 25* enumerates the right to freedom of consciousness and free profession, practice, and propagation of religion; *Article 26*

<sup>22</sup> The first steps towards a meaningful reconciliation between Sinhalese and Tamils are being made (see, for example, Lessons Learnt and Reconciliation Commission or the constructive pressure of the international community)

<sup>23</sup> Although a statistical majority, Hindus divided by language and caste do not have a clear political majority. Conversely, although a minority on the national level, all of India's religious minorities form a majority in a given State or District. Similarly, minority communities also have internal minorities, i.e. Muslim minorities, such as Urdu and Non-Urdu speaking Muslims, Shias, and Sunnis.

<sup>24</sup> This section draws heavily on the Constitution of India up to 94th Amendment Act, available at: <http://indiacode.nic.in/coiweb/welcome.html>.

applies to the freedom to manage religious affairs given to religious denominations or sections thereof; *Article 28* applies to the freedom of attendance at religious instruction or religious worship in certain educational institutions. *Article 347* stipulates the special provisions relating to language spoken by a section of the population of a State, whereas *Article 350* defines the language to be used in representations for redress of grievances; *Article 350A* assures facilities for instruction in mother tongue at primary stage and *Article 350B* provides for appointment of a Special Officer for linguistic minorities by the President.

Cultural and Educational Rights are secured in Articles 29 and 30. *Article 29*, also known as protection of interests of minorities, declares in its first clause that “any section of the citizens residing in the territory of India or any part thereof having a distinct language, script or culture of its own shall have the right to conserve the same.” Clause 2 of the same Article states: “no citizens shall be denied admission into any educational institution maintained by the State or receiving aid out of State funds on grounds only of *religion, race, caste, language*, or any of them” (italics added for emphasis) *Article 30*, Clause 1 states that “all minorities, whether based on religion or language, shall have the right to establish and administer educational institutions of their choice,” whereas Clause 2 prohibits the discrimination against any educational institution on the grounds that it is under the management of a minority, whether based on religion or language. Thus, in fact, the Constitution does provide, albeit indirectly, a definition of minorities (!) in *Article 29, protection of interests of minorities*: in the first clause, the text refers to minorities based on *language, script, or culture*; in clause 2 of the same Article, it does extend the definition. Given the above analysis descriptions, in India there are *minorities* clearly based on *religion, race, caste* and/or *language*.

**b. Sri Lanka<sup>25</sup>**

The Constitution of Sri Lanka does not provide a precise definition of “minority” as well. The concept of minority, whether religious or linguistic or in its plural or singular form, is missing from the constitutional provisions or other legal stipulations. The majority of people in Sri Lanka (74.5%) are Sinhalese, distinguished primarily by their language - Sinhala.

In Sri Lanka’s Independence Constitution, the British Colonial Office adopted the Soulbury Commission’s views that the protection of ethnic minority rights should be sought through clauses preserved within a unitary State constitution. Under *Article 29(2)* it contained provisions that Parliament was not competent to pass laws that:

- (a) prohibit or restrict the free exercise of any religion; or
- (b) make provisions of any community or religion liable to disabilities or restrictions to which persons or other communities or religions are not made liable; or
- (c) confer on persons of any community or religion any privilege or advantage which is not conferred on persons of other communities or religions; or
- (d) alter the constitution of any religious body except with the consent of the governing authority of that body.<sup>26</sup>

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<sup>25</sup> Until 1972 Sri Lanka was called Ceylon. I am aware of the fact that for historical and contextual appropriateness using the names interchangeably would be correct. However, I also use Sri Lanka for the period up to the 1972 Constitution. Nevertheless, Ceylon, will appear in official acts, agreements and quoted literature. Additionally, I think that using Sri Lanka “inappropriately” bears an additional meaning emphasizing the ethnic outbidding and nation-building policies long before 1972, i.e. Citizenship Act of 1948 or language provisions of 1956.

Article 29(2) represented certain guarantees given to the minorities by the departing colonial government as a *quid pro quo* for their accepting a constitution establishing a unitary State for independent Sri Lanka, although de Silva rightfully observed that the lack of entrenched guarantees of fundamental rights, on the lines enacted in the constitutions of India, Malaysia, Nigeria, and other post-colonial states allowed the Sinhalese decision-makers to ignore it, passing laws most of which adversely affected the minorities (de Silva 1981: 511).<sup>27</sup>

In contrast to the Soulbury Constitution, the current Constitution, promulgated in 1978,<sup>28</sup> guarantees fundamental rights to every citizen,<sup>29</sup> such as freedom of thought, conscience, and religion (*Articles 10*), freedom from torture and cruel, inhumane or degrading treatment (*Article 11*). *Article 12* secures the right to equality, whereas *Article 13* stipulates the freedom from arbitrary arrest, detention and punishment, and prohibition of retroactive penal legislation. The Constitution of Sri Lanka also guarantees, under *Article 14(1)(a-i)*, the freedom of speech and expression to every citizen, the freedom of peaceful assembly, the freedom of association including the freedom to join a trade union, the freedom to manifest his or her religion or belief in worship, observance, practice and teaching, the freedom to promote his or her culture and to use his own language, the freedom to engage in any lawful occupation, profession, trade, business or enterprise, and the freedom of movement, residence including the freedom to return to Sri Lanka.

Moreover, Chapter IV-Language proclaims under *Article 18(1)* that the Official Language of Sri Lanka shall be Sinhala and that “Tamil shall also be an official language” (*Article 18(2)*). The Constitution also regards English as the “link language” (*Article 18(3)*)<sup>30</sup>. In this Chapter, an express provision appears permitting the use of Tamil language in Parliament, local government, courts, universities, schools and in official correspondence (*Articles 20-24*). Under *Article 25*, the State obliges itself to provide adequate facilities for the use of the languages provided in this Chapter.

In contrast to India’s secular principle of *sarva dharma samabhav* (let all religions prosper, i.e., equal treatment of and respect for all religions), and despite the fact that there are other religious minorities, the Constitution gives Buddhism the foremost place. *Article 9* of the Constitution proclaims that “the Republic of Sri Lanka shall give to Buddhism the foremost place and accordingly it shall be the duty of the State to protect and foster the Buddha Sasana, while assuring to all religions the rights granted by *Articles 10* and *14(1)(e)*.”<sup>31</sup> Consequently, the constitution does

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<sup>26</sup> See the full text of Ceylon Constitution Order in Council 1946, which at Sri Lanka’s independence became the country’s first Constitution, at: <http://www.tamilnation.org/srilankalaws/46constitution.htm>. Consider also Marasinghe, L. 2004, p.14; de Silva, 1981, pp.510-539.

<sup>27</sup> For the sake of equity one should add that the Constitution was a heritage from the British, not mentioning the fundamental rights because, “according to the British tradition, the protection of such rights is left to the due process of law,” in Rothermund and Kulke 2010, p.327.

<sup>28</sup> Next section draws heavily on Constitution of Sri Lanka (as amended up to 17<sup>th</sup> Amendment, 3<sup>rd</sup> October 2001), revised edition 2008, available at: [http://www.parliament.lk/about\\_us/constitution.pdf](http://www.parliament.lk/about_us/constitution.pdf).

<sup>29</sup> Chapter III – Fundamental Rights.

<sup>30</sup> *Article 18(1-3)* were amended by the Thirteenth Amendment to the Constitution in 1987.

<sup>31</sup> This stipulation was already introduced in the 1972 Republican Constitution. Compare this to India, where “secularism” is one of the major principles of the Constitution, meaning both equal and due respect for all religions and faiths as well as separation of church and state. The preamble of the Constitution of India declared one of the objectives to be to secure to all

not have a provision similar to Article 26 of the Indian Constitution that provides guarantees to every religious denomination or a section of the article that grants the right to manage their own affairs in matters of religion and the right to establish and maintain institutions for religious purposes. A noteworthy detail is the inclusion of this principle in the Soulbury Constitution Article 29(2)(4) prohibiting the enactment of legislation restricting the free exercise of any religion or altering the constitution of any religious body without the consent of that body.

*India: consociational arrangements as conflict regulating practices*

At Independence, India had a completely (Westminster)-majoritarian constitution.<sup>32</sup> The Partition was still vividly present in the people's consciousness. Communal violence preceding these events was painfully felt. The question the founding fathers and constitution-makers had to contend with was what kind of institutions and practices should be created to act as an incentive for ethnic groups to mediate their differences through legitimate institutions of a common democratic state? Other related concerns were how to prevent another "two-nation theory," what relation should be between the state and religion; and whether religious minorities should continue to have "separate electorates," reservations, or educational institutions. Additionally, almost six hundred princely states that were nominally sovereign entities not directly administered by the British, and having the free choice of "opting in" or "opting out" of India had to be incorporated. As Stepan pointedly observed:

[b]y Benedict Anderson's standards there would appear to have been more than enough raw material for territorial nationalists to imagine (and attain) separate independent nation(s) in South India. In the last decades of the British Raj more than ninety percent of the population in South India spoke languages in the Dravidian family, all of which had their own scripts and were unintelligible to the major language of the North, Hindi. (Stepan 2006: 46-47).

In addition to the factors mentioned above, the introduction of universal suffrage and the "ending of the post-struggle for independence decennial bonus" have led some political analysts, following the lead of Selig Harrison (1960), to argue that India faced "the most dangerous decades," which will eventually lead to its balkanization and collapse.

Thus, according to the composite model for conflict regulation in plural societies, the role of the elite's strategy, (i.e., formal and informal agreements), becomes pivotal. The strategy is the necessary piece of the conflict management puzzle. In India, the political elite constituted "the new priesthood [...], partly because of the exemplary and saintly or the grand and heroic styles of men like Gandhi and Nehru, and partly because of the overriding importance of the politician in social life and his growing intimacy with society's life processes" (Kothari 1994: 268). In this sense, deciding on an Indian-state-nation-building process, instead of Hindu-nation-state-building,<sup>33</sup> a high level of "constitutional patriotism"<sup>34</sup> was achieved.

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citizens of India the freedom of faith, belief, and worship. The chapter on fundamental rights provided a constitutional guarantee to minority groups, incorporating a separate group of rights in Articles 25-28 focusing on the right to freedom of religion.

<sup>32</sup> Consider also Brass's observation: "Nehru writes that the Indian mind was 'completely conditioned to believing that whatever was British was best' and further states that no wonder that the Indian Constitution was but an "amended version" of the 1935 Government of India Act.", in Brass, 1994, p. 149.

<sup>33</sup> For the concept of "state nation" as opposed to "nation state" consider the excellent comparative article on institutional engineering: Linz, Stepan, and Yadav. "'Nation State' or

**a. Grand coalition<sup>35</sup>**

The period from 1947-1967 during which the Congress Party was the dominant party and governed alone is considered to be an instance of executive power-sharing. The Congress Party was broadly representative and inclusive during this period, manifested by an internally federal organization, a high-degree of intra-party democracy, and a strong aptitude for consensus. In the view of Lijphart's assertion that "the combination of the Congress Party's inclusive nature and political dominance has generated grand coalition cabinets with ministers belonging to all main religious, linguistic, and regional groups" (Lijphart 2008: 45-46), Congress cabinets accorded proportional ministerial portfolios to the Muslim and Sikh minority, as well as to the different linguistic groups, states, and regions of the country (Bogaards 2005: 173). Lijphart's analysis draws heavily on Rajni Kothari's description of the Congress Party as a system, characterized by a party of consensus that has assumed electoral and governmental dominance within competitive multi-party system. However, there were limitations to the degree of consociationalism achieved within the Congress Party. Bogaards states that in India the federal structures provided "a crucial additional site of representation and accommodation supplementing – and in India ultimately substituting for – processes within the consociational party" (Bogaards 2005: 174).

Regional parties represent another important factor because their support base is entirely local. The constituents identify with particular ethnic, linguistic, or religious groups, such as SAD for Sikhs, DMK and AIDMK for Tamils, MNF for Mizos, SDF in Sikkim but also BSP in the states of Bihar and UP, representing chiefly the interests of Scheduled Castes (SCs) and Scheduled Tribes (STs) as well as other minorities. As constituents of a national government, they serve as "vehicles of regional identity" (Hardgrave 1993: 57), and due to the incentives of coalition politics, they function as watchdogs of minority rights guaranteeing that even the arguably not so minority-friendly parties such as BJP would have to reconsider and adapt their policies toward minorities.<sup>36</sup> In terms of orientation, such parties as the DMK or SAD are categorized by Stepan as classic "centric-regional" parties, meaning they control not only the affairs of a given State, but they also have a say at the center in terms of seats or cabinet posts (Stepan 2007: 261). Thus, currently, grand coalitions could be considered in terms of multiparty coalitions,<sup>37</sup> which are generally just as broad and inclusive of most geographic, linguistic, and religious interests as the Congress cabinets during the Congress-"System".<sup>38</sup> These

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'State Nation'? India in Comparative Perspective" in Bajpai, 2007, pp.50-106; also Linz et al. 2003 as well as Stepan, Linz and Yadav. 2011.

<sup>34</sup> For "constitutional patriotism" (*Verfassungspatriotismus*) see Habermas, 1992: 603-651.

<sup>35</sup> O'Leary (2005: 12-13) distinguishes between *complete*, *concurrent*, and *weak* democratic consociational executives, reaching the conclusion that consociational executives need not be all inclusive grand coalitions, i.e., do not have to include all segments in government, particularly in those cases in which there are numerous small ethnic minorities and categories of people—insignificant demographically, electorally, or politically—to be organized into any consociational settlement.

<sup>36</sup> Additionally see: Mitra, Subrata K., 2005(b): "The NDA and the politics of 'minorities'" in Adeney Katharine and Saez, Lawrence, eds., *Coalition Politics and Hindu Nationalism*, Routledge Advances in South Asian Studies, Routledge.

<sup>37</sup> National Democratic Alliance consisted of as many as 23 parties, currently BJP-led coalition has eight and Congress-led coalition- United Progressive Alliance- nine; Third Front alliance ten parties, see: India Elections (result, coalitions), available at: <http://www.indian-elections.com/alliances/>

<sup>38</sup> On coalitions that moderate the conflict see also the case study of Kerala in Horowitz, D. L. 1993. "Democracy in Divided Societies", *Journal of Democracy*. 4(4). pp. 33-35.

developments point to a flexibility and dynamism that refute the criticism of ‘*immobilism*’ usually expressed by the critics of power sharing.

**b. Segmental autonomy as symmetrical and asymmetrical federalism**

In India, the federal states were drawn to correspond to ethnic variations as a response to collective protest, such as the pursuit of a *homeland* (i.e., segmental autonomy; for those groups with a territory and no state of their own, sufficiently well organized to articulate the demands politically, converting their minority status into a majority one). The States Reorganisation Act of 1956 (incorporated into the Constitution as Seventh Amendment Act) constituted the first step in meeting these demands. Horowitz pointedly remarked that “devolution of a generous share of power upon largely homogenous federal units promises a dramatic reduction in conflict at the center.” Hence, many issues are contested within ethnic groups rather than between them, because many of them become State-level issues (Horowitz 1993: 35).

Additionally, Article 3 of the Constitution allows the Parliament to form new states, as well as alter the areas, boundaries, or names of existing States. This provision has led specialists to describe India as “quasi-federal” (Wheare 1966: 35). This notion, however, is contrary to historical events, because it has enabled the Union to react more flexibly to the separatist demands and it has provided incentives for the self-determination movements to struggle for a “homeland” within the Indian Union. One should compare the bear facts to be able to grasp the effectiveness of this Article. As a result of the Seventh Amendment (i.e. the States Reorganisation Act) India was reorganized into 14 States. Currently, the country comprises 28 States and seven Union territories, and the number could grow in the future.<sup>39</sup> Conclusively, federal arrangements proved to be a robust and successful mechanism in coping with secessionist and sub-national movements, as exemplarily shown in the Table below<sup>40</sup>:

Table 3. India: Minority demands and symmetrical (ethnic) federal arrangements<sup>41</sup>

<i>Minorities</i>	<i>Territorial Aspiration</i>	<i>Result</i>
Tamil nationalism	Autonomous Tamil Nadu	achieved (1956)
Naga nationalism	Autonomous Nagaland	achieved (1963)
Sikh identity	Punjab along linguistic lines	achieved (1966)
Mizo Nationalism	Autonomous Mizoram	achieved (1987)
Jharkhandi identity	Autonomous Jharkhand	achieved (2000)
Gorkha identity	Autonomous Gorkhaland	achieved (2011)
Kashmiri identity	Undivided Kashmir	ongoing
Telugu identity	Talangana state	ongoing

The Official Languages (Amendment) Act of 1967 is another conflict-regulating law with an accommodating, power-sharing vein by means of which “a multiplicity of major peoples, defined primarily in terms of language, were recognized as corporate groups within the Indian Union with rights equal to all other such groups.”

<sup>39</sup> For statistics, see Seventh Amendment to the Constitution. For forecasts, see the debates about the creation of a States Reorganisation Commission (SRC) to consider the formation of new states by carving them out of, i.e., Uttar Pradesh or Andhra Pradesh.

<sup>40</sup> The Table is adapted from Mitra (1999a, p.200) and has been modified updated.

<sup>41</sup> For an elaborate and vivid analysis federal design and practice in India, see Mitra, Subrata K. (2011) *Politics in India, Structure, Process and Policy*. Oxford: Routledge, Chapter 5 “The federal structure: balancing unity and diversity,” pp. 87-108.

(Brass 1994: 149) Accordingly, each State in India has its own official language, although central government business is conducted either in Hindi or in English.

Moreover, several states in India, Jammu and Kashmir under Article 370, as well as Northeastern States under Article 371 are afforded special rights and protections not available to the rest of the states - an instance of asymmetrical federalism. Subsequent legislation even prohibits citizens from other States to settle and buy land in Kashmir (Parekh 2006: 191).

Another example of asymmetrical federalism is the right of religious and linguistic minorities to establish and administer their own schools, fully supported by public funds and granted in Article 30 of the Constitution. Under the aegis of this law, two types of religious schools have been organized by the four major religious communities: (a) religious institutions aided by a particular community and (b) religious schools aided by private or government agencies (Tremblay 2005: 208). Linguistic minorities whose languages have been included into the Eighth Schedule of the Constitution have the same right under Article 30. According to Ministry of Home Affairs' Report, of the total population of India, 97.6 percent have one of the Scheduled languages as their mother tongue.

With regard to the spirit of accommodation of religious minorities, the Constitution, based on Articles 25 and 26, allows the religious communities to adhere to their personal laws in the governance of their communities in spheres such as marriage, divorce, and inheritance. The controversial 1985 Shah Bano decision by the Supreme Court, made Shah Bano, a 62 year old Muslim woman in search for alimony, the poster child for the construction of community identity and rights as a community. In support of reversing the Court's decision, Jamiat Ulama-I-Hind, one of the leading Islamic organizations in India, made the following statement: "the demand [for a personal code] is tantamount to a fundamental departure from the position that, in the present-day situation, where the Muslim community is deeply entangled in a struggle for the search and safeguard of its self-identity, it is only personal law that can be a permanent guarantee of its preservation."<sup>42</sup> Consequently, the new Muslim Women Act (Protection of Right on Divorce) was adopted in 1986, largely in line with the wishes of the Muslim Personal Law Board. Phillips, describing the view of Indian feminists, observed that before the Shah Bano events, Indian feminists supported a uniform civil code. After the Act was enacted, however, feminists have been much divided on the issue, but "virtually none now argues for state imposition of a uniform civil code; the main options instead being either reform from within of the various personal law systems, or a state-sponsored civil code that operates in some way alongside personal law" (Phillips 2005: 128).

### **c. Proportionality as reservations<sup>43</sup>**

According to Lijphart (2008: 48), the electoral system of power-sharing democracies, engenders proportional representation. However, based on the fact that linguistic minorities, as well as Muslims in Kashmir, Sikhs in Punjab, and Christians in the Northeast are mainly geographically concentrated, the plurality winner-take-all electoral system present in India does not disadvantage them. Moreover, as previously observed, there are "centric-regional" parties, such as DMK or AIADMK in Tamil Nadu, or Telugu Desam Party in Andhra Pradesh which obtain a share of power also on the national level.

<sup>42</sup> Quoted in Chandhoke, Neera. 2002. "Individual and Group Rights", p. 230.

<sup>43</sup> Lijphart (1996: 261; 2008: 60) states that "consociational interpretation *does not fit India's caste conflict* as well as it fits the linguistic and religious divisions" (emphasis added).

Additionally, the state sought to reverse the injustices incurred upon Scheduled Castes<sup>44</sup> (former untouchables) and Scheduled Tribes by both adopting constitutional safeguards and enacting affirmative action programs that provided not only equal protection in law but also “reservation” of seats in the state assemblies and Parliament. These measures taken by the state demonstrated its commitment to reservations.<sup>45</sup>

Constitutional safeguards, national and state policies, as well as formation of special Ministries and Commissions (to monitor and investigate, and evaluate policies’ implementation) led to political mobilization of the lower castes. Weiner (2001: 200) pointedly observed that: “a half-century after independence, the chief ministers of most of India’s states were non-Brahmins, some from the middle castes, but many drawn from the backward castes. The chief minister of UP was a scheduled caste woman. In August 1997, India elected K.R. Narayanan, a member of scheduled caste, as the country’s president.” Currently, the largest state of Uttar Pradesh is run by a schedule caste woman whose party (BSP – a party that represents the minorities, including SC, ST and OBCs) won the majority in the State elections.

Apart from reservations in parliament and state assemblies, Article 335 of the Constitution provides reservations of jobs for SCs and STs in the administrative services, whereas the Reservations in Admissions Act provides reservations of 27 percent of seats to OBCs in higher educational institutions.

The statistical data available on the evolution and effects of reservation policy in India<sup>46</sup> confirms Narain’s brilliant observation concerning the empowerment through positive discrimination, stating that “almost a bloodless social revolution could be accomplished through the democratic process, under which the deprived strata of society are being brought into the national mainstream” (Narain 1976: 916).

Finally, a policy of reservation for religious minorities was enacted by the State Governments of Kerala and Karnataka, representing an important paradigm shift in reservation policies, given that reservations for religious minorities were previously excluded from the political agenda due to memories of the past, that is, Muslim separate electoral constituencies under the British rule.

#### **d. Demand for security - minority veto**

Lijphart states that the minority veto in power-sharing democracies usually consists merely of an informal understanding that minorities can effectively protect their autonomy by blocking any attempts to eliminate or reduce it (Lijphart 2008: 49). The informal veto right shows a higher level of trust among groups than a formal veto, and it is also more efficient when not too often exercised.

In India, the minority veto is not constitutionally entrenched. However, it occurred on several occasions as illustrated below:

Table 4. Instances of minority veto

<sup>44</sup> The name “Schedule” comes from an official list, or schedule, that gave the “Scheduled Castes” (SCs) their name. Originally compiled by civil servants in the 1930s, the current version shows 1,091 Scheduled Castes. Quoted from: Reservation in India, 2002, available at: <http://www.ambedkar.org/News/reservationinindia.pdf>.

<sup>45</sup> In 1979, the Government of India appointed a commission, known after its chairman as the Mandal Commission, to consider the proposal for extending reservations to the Other Backward Classes (conceived also in terms of caste).

<sup>46</sup> Consult for example *Representation of the SCs, STs and OBCs in Central Government Services*, available in Government of India, Report of the NCRLM, 2007, p.125.

Implications for...	Issues	Result	Minority Veto
Nation building	Hindi as the sole official language	Not passed	succeeded
	Ban on cow slaughter	Passed (Gujarat 2000)	failed
	School prayers (Vande Mataram – compulsory)	Not passed	succeeded
	Rewrite text-book in a manner so as to glorify Hindu heroes over Muslim rulers	Not passed	succeeded
State formation	To control/check the growth of madrasas (Muslim schools)	Not passed	succeeded
	Prevention of Terrorism Bill (many Muslims held without trial)	Not passed	succeeded
Social justice	Uniform Civil Code	Not passed	succeeded
	Women's Reservation Bill (1/3 in Parliament and State Legislatures) <sup>47</sup>	Not passed	succeeded

In case of the unsuccessful veto in Gujarat, the bill was passed with the unanimous support of both the BJP and the Indian National Congress, an unavoidable result as Mitra pointedly remarked: “as in Sri Lanka, the minority has no chance when the two major parties agree.” (Mitra, 2005b: 85)

*Sri Lanka: From power sharing to majority rule*

**a. Favorable conditions at the Independence**

Formerly the British colony of Ceylon, Sri Lanka achieved independence in 1948 with a promising future anticipated by its own people and by outside observers alike. There was a basis for such optimism. Sowell observes that although the Sinhalese and the Tamils differed in ethnicity, language, and religion there was much evidence of goodwill across the social lines that divided them. The elites of both groups were Westernized, English-speaking, and cosmopolitan, and were accustomed to working together. (Sowell 2004: 78)

Favorable conditions had emerged from the fact that “of the ten newly independent countries of South and South East Asia, Ceylon has more of the attributes of a modernized social and political system than any other” (Wriggins 1965: 6). Some of these attributes were 60 percent literacy rate, the highest per capita income of any country in Asia except for Japan and the civil service that by 1949 was almost exclusively indigenous. (Wriggins 1965: 66-8; 100-1; 458-70)

According to Wilson, “the unexpressed premise of the Soulbury Constitution was a *consociational arrangement* between the English-educated elites, of all island’s principal groups: communal (Sinhalese, Tamil, Muslim), religious (Buddhist, Hindu, Muslim, Catholic, Protestant) and social (the various castes among the Sinhalese and Tamil communities).” Aside from Article 29, the consociational arrangements included other important safeguards, such as “weightage in representation including Appointed Members (not exceeding six in number) in the popular House of Representatives, a second chamber (the Senate), [...] and independent public services and judicial services commissions” (Wilson 1988: 34).

<sup>47</sup> Although the Bill has been passed in Rajya Sabha (the Upper House) in 2010 already, it is still pending in Lok Sabha (the Lower House), facing a fierce opposition mainly from SC or OBC Parties, which fear their reservation quota being diminished as it will particularly, if not exclusively, help women from high- or middle class families to enter politics. See *No consensus at all-party meeting on Women's Reservation Bill*, at: <http://www.ndtv.com/article/india/no-consensus-at-all-party-meeting-on-women-s-reservation-bill-113967>.

Relations among the various ethnic and religious groups in Sri Lanka were described by an American scholar as "cordial, unmarred by the sort of friction that exists between Hindus and Moslems in India" (Sowell 2004: 79). This accommodative pattern was not confined to the elites or to politics. In general, the situation seemed to provide an impressive basis for a successful start in state- and nation-building.

**b. Majoritarian practices and gradual minority exclusion**

Strict definable stages are discussed in this section that led to the escalation of an incipiently mild conflict into a full-blown war on secession and a near break-down of the state. These stages include both cause and effect as well as action and reaction variables. On the part of the Sinhala elites, the causes lie in the development of a majoritarian control strategy concerning policy implementation and institutional engineering. On the part of the Tamil minority, the conflict can be traced to radicalization of their demands from parity within a unitary state to commitment and pledge of loyalty to the idea of a separate state of Tamil Eelam. In chronological and conflict-escalation order, the stages are as follows: Citizenship Act of 1948, peasant settlement policies, Official Language Act of 1956, affirmative action policies such as University Entrance System of 1972, also known as policies of standardization, and the Constitution of 1972.

Within a few months of independence, the government of Sri Lanka (Ceylon) enacted the Citizenship Act of 1948, eliminating the vast majority of Indian plantation workers (Upcountry Tamils) from the electoral registers by the simple strategy of defining the right to citizenship far more rigidly than previously. Along with the Indian and Pakistani Residents (Citizenship) Act of 1949, the two Acts completely changed the representational landscape. Quoting the Sinhalese political scientist I.D.S. Weerawardena, Wilson writes that the disfranchisement of the Indians was "a broken pledge to all the minorities." He added, "[the] moral basis of the Soulbury Constitution has been wiped away" (Wilson 1988: 18-19).

The disfranchisement of the Upcountry Tamils meant that the Tamil vote was so small that it could be disregarded. This resulting lack of representation created a rival strategy on how to best compete for the votes of the Sinhalese majority (Horowitz 1989: 21-22). Consequently, Sri Lanka's party system has revolved around the competition against the two main Sinhalese parties for Sinhalese votes and competition within the two main Tamil parties for Tamil votes (until the two Tamil parties merged in 1972). Disfranchisement had direct consequences on the shift of intent of the language movement.

According to Sowell (2004: 84), the demand to replace English by the two indigenous languages—Sinhalese and Tamil as main political languages—was made as far back as the early 1940s, but the transition from English was still not implemented. The slow progress is largely due to the caution of Prime Minister D. S. Senanayake, who sensed the explosive potential of issues like language and religion in a newly independent and ethnically divided country.

However, despite the political union between the Sinhalese and Tamils, the resulting disfranchisement caused Sinhalese elite to use their power to institute Sinhala alone as the state's official language. This political maneuvering led the two main Sinhalese parties, United National Party (UNP) and Sri Lanka Freedom Party (SLFP), "to outbid each other on who could provide the better deal for the Sinhalese community" (Sahadevan and Devotta 2006: 5)<sup>48</sup>. Consequently, the 1956 general

<sup>48</sup> Why a similar ethnic outbidding was avoided in India see pp.9-13.

election saw the institutionalization of the outbidding process. The key actor to make use of the opportunity to dismiss Tamil language rights was Bandaranaike, the leader of SLFP. Sowell (2004: 85) observed that Bandaranaike himself was not at all representative of those in whose name he spoke, but “he wanted to become prime minister—and he succeeded.”<sup>49</sup> Bandaranaike campaigned on the simple idea of “Sinhala only and within twenty four hours.” The bill was introduced on June 14, 1956 and passed nine days later.

As in India, language policy in Sri Lanka became a focus of intergroup strife, because, apart from its symbolic value of group distinctiveness, it had the potential for having profound effects on educational and economic opportunities.

Peasant settlement policies led to significant changes in the ethnic composition of Ampara and Trincomalee districts in the Eastern part of Sri Lanka. In Ampara, the Sinhala population increased from 5.9 percent to 17.7 percent while Tamil population declined from 50.3 percent to 46.4 percent and the Muslim population declined from 42.2 percent to 35.1 percent between 1946 and 1971. During the same period, the Sinhala population in Trincomalee district increased from 20.6 percent to 28.8 percent and the Tamil population declined from 44.5 percent to 38.2 percent and the Muslim population increased from 30.5 percent to 32 percent. (Bandaranage 2009: 46-47)

The climax of “sinhalisation” of the state and imposition of the will of majority represented the Constitution of 1972. It abrogated the preceding constitution, which derived authority from the British Crown. According to Jayasuriya (2005: 12), the constitution, in essence, was meant to be an expression of a new nationalism as well as the embodiment of progressive socialist ideals of people’s power and centralized planning. However, the Sinhala Buddhist majority was the mainspring for the “new nationalism”. In this sense, the country’s colonial name, Ceylon, was replaced with Sri Lanka,<sup>50</sup> whereas the foremost place was given to Buddhism (as already mentioned), virtually ignoring the presence of other religions (e.g., Hindu, Christian, and Muslim) in the country. This movement also removed the safeguards that had been in place to protect minorities, such as Article 29(2), and it incorporated the provisions of the Official Language Act of 1956. Thus, Sinhala Buddhist nationalism was institutionalized, becoming one with the state (see Diagram 1, below).

The 1978 Constitution followed closely the contents of the 1972 Constitution. The only official language of Sri Lanka was still Sinhala (Article 18), but in a new provision of the 1978 Constitution additionally to Sinhala Tamil was introduced, acting as the second national language (Article 19 and 21), the exact meaning of which was not clearly specified. Other changes were also made, such as the shift from a parliamentary to a presidential system or the introduction of proportional representation instead of plurality, that is, the FPTP-electoral system.

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<sup>49</sup> Consider the following superb analysis: “Bandaranaike was both a utopian idealist and an avid opportunist, relentlessly pursuing short-term political gains. [...] He had hoped to use chauvinism as a means to achieve power, believing that he could disarm it by making modest, long-overdue concessions to Sinhalese-Buddhist interests, and then by concentrating on reform to remove social injustice and soothe the anxieties of would-be communalists. He did not succeed [...] very substantially because of the way Bandaranaike himself thought and acted.” Manor, 1989, pp. 326-27.

<sup>50</sup> A term used in ancient Indian epics over Sinhala, a pre-colonial name, which claimed the island as the land of the Sinhala people, in Bandaranage, 2009, p.64.

Proportional representation, based on consociational theory, should have been an important benefit to and would have had an accommodative effect on minorities. However, as Horowitz brilliantly grasped, “[soon] after these changes came into effect [...] conditions were anything but normal. The Tamil United Liberation Front [...] had been excluded from parliament; separatist violence had begun in earnest; and Sinhalese and Tamil opinion had become so polarized that, in the short term at least, no electoral system could foster moderation.” (Horowitz 1989: 23)

Representation is one of the primary concerns to the minorities. However, as I have argued, minorities have not stood a chance on vital matters of individual and group identity, social and economic opportunity, access to state sector employment, as well as the crucial issue for a plural society such as form and character of the state (unitary/federal and based on secular principles). On these central issues that had direct relevance to the majority group as well, the major political parties UNP and SLFP were either united or not flexible in their opposition. The “democratic stability”<sup>51</sup> from an originally power sharing system to majoritarian “control” system was established. The Table below shows how the analyzed processes fit the pattern of the control system:

Table 5. Majoritarian control system in Sri Lanka

Control System	Laws, policies and institutional arrangements
The interest of the majority segment as perceived and articulated by <i>its</i> elite.	Citizenship Act of 1948 <sup>52</sup> ; Official Language Act of 1956; affirmative action; peasant settlement; 1972 and 1978 Constitutions
The majority segment extracts what it needs from the minority segment and delivers what it sees fit.	Tamil Language (Special Provisions) Act of 1958 <sup>53</sup> ; proportional representation, 1978.
No bargaining between elites of the majority and minority segments.	Bandaranaike-Chelvanayakam Pact; Senanayake-Chelvanayakam Pact <sup>54</sup>
The bureaucratic apparatus of the state benefits the segment which it represents.	Citizenship question, University Entrance System of 1972; language policy, state employment etc.
Legitimacy is reached by an elaborate and well-articulated group-specific ideology.	Sri Lanka instead of Ceylon; Buddhism- foremost place, but also the “minority complex” <sup>55</sup>
“puppeteer manipulating his stringed puppet”	Solomon & Sirimavo Bandaranaike; J.R. Jayewardene.

<sup>51</sup> Some analysts usually point to the fact that from 1956 until 1977 six successive Sri Lankan general elections saw incumbent governments defeated at the polls, evaluating it as a pattern for stable democracy (see Wagner 1999, p.912). However, democracy means more than holding elections.

<sup>52</sup> For a superb overview of India’s citizenship acts, which have become more inclusive, see Mitra, Subrata K. “Citizenship in India: Preliminary Results of a National Survey, 2009”, *Economic and Political Weekly*, no. 9: Feb. 27, 2010, pp. 46-54. Additionally, see Mitra, Subrata K. ed., (2012) *Citizenship in the Era of Globalization: Structure, Agency, Power, and the Flow of Ideas*, New Delhi: Samskriti.

<sup>53</sup> This act provides for Tamil as the language of administration in the Northern and Eastern Provinces where the Tamils are the majority of the population. However the provisions of this act, implemented only in 1965, were never carried out. See Jayawardane, 2006, p.234.

<sup>54</sup> Both pacts could be retrospectively perceived due to “ethnic outbidding” and a lack of concessions that could be a detriment to the majority as pseudo-bargaining efforts.

<sup>55</sup> Although a clear majority on the island, the Sinhalese see themselves as a minority endangered by the larger Tamil community in India and northern Sri Lanka. Tamil Nadu alone is almost double the geographic area of Sri Lanka and also more than three times its population.

The findings in Table 5 show that by 1978 a system of ‘control’ by Sinhalese majority of Tamil minority was established. The significance emerges from the fact that it enables testing the second hypothesis, which states that in a plural/deeply divided society majoritarian practices will exacerbate rather than regulate a conflict. Consequently, a radicalization of Tamil demands should be expected.

### c. Radicalization of Minorities’ Demands

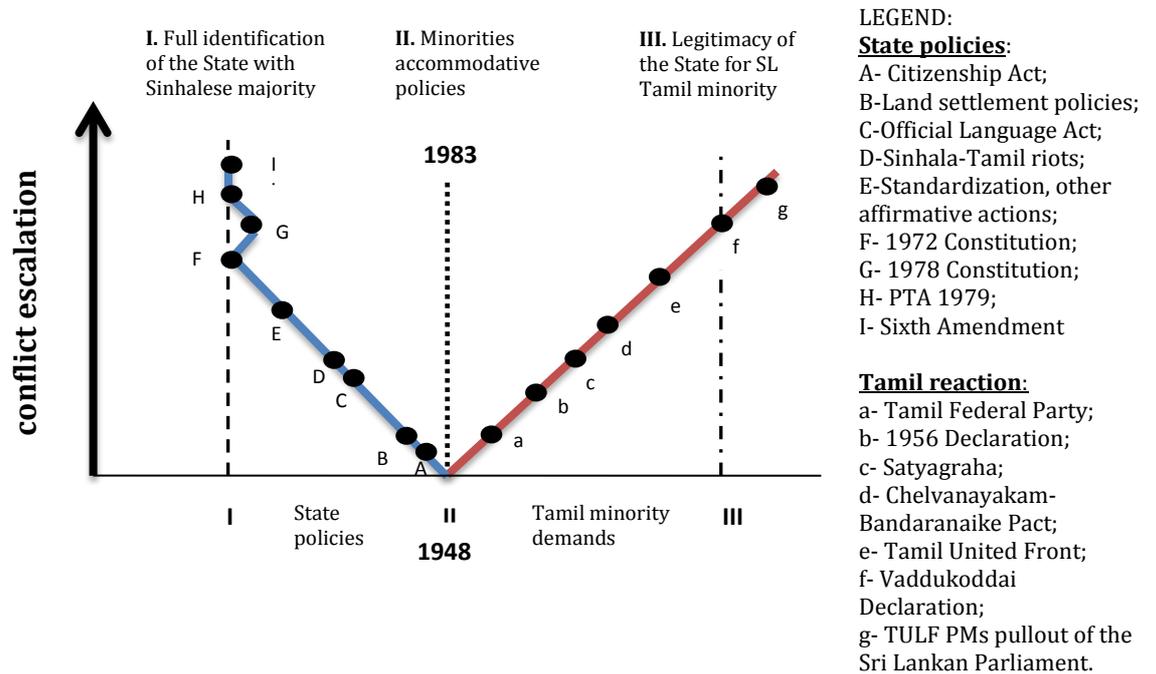
The policies of majoritarian “control” system resulted in a gradual increase in the minority ethnic group’s demands. After the disfranchisement of the Upcountry Tamils, one of the leaders of the All Ceylon Tamil Party, S.J.V. Chelvanayakam, left the party with the argument that the Tamils needed a territorial electoral base in the north to protect Tamil interests. The implementation of the Official Language Act of 1956 resulted in several long-lasting and unsolvable problems including the struggle for secession that subsequently surfaced. Declining prospects for education and employment faced by many Tamils as a result of standardization policies led to, at first, peaceful protests in parliament and throughout the country, especially among the students. This in turn led to anti-Tamil mob attacks “in the frenzied atmosphere whipped up by Sinhalese politicians and Buddhist monks” (Sowell 2004: 87) that resulted in at least 150 Tamils killed. Affirmative action in Sri Lanka led not to “ceylonisation” (Wriggins 1960) but to its sinhalisation, an exclusively tailored movement that suited the needs of the majority instead of polity-wide measures of inclusion and empowerment of discriminated minorities according to its plural ethos. Eventually, sinhalisation led to the politicized younger groups “take up arms against a sea of troubles and win or lose in the resulting war” (Wilson 1988: 39).

The diagram below illustrates succinctly the consequences of majoritarian practices (1948-1983) in terms of four dependent variables: *conflict escalation* (from 1948 onwards), *progressive identification of the state with the Sinhalese majority* (I), *legitimacy of the Sri Lankan state for Tamil minority* (III) and *minorities’ accommodative policies* (II),<sup>56</sup> which are explained in terms of state policies (blue line) and Tamil minority demands (red line). The diagram impressively shows how in spite of a common point of departure at the independence and peaceful coexistence between communities, by 1983, the Sri Lankan state ceased to represent a legitimate arena to settle the conflicts politically, as Sri Lankan Tamils pulled out of the Parliament (see Legend, letter ‘g’) and chose bullets instead of ballots. On the other hand, the process of sinhalisation of politics, culminating with a full identification of the state with the Sinhalese majority started even earlier, namely with the Constitution of 1972.<sup>57</sup> Representing a visualization of the second hypothesis, the diagram shows how each ‘control’ system-based state policy (A-I) triggered an opposite reaction, intensified the conflict and led to the radicalization of Tamil’s demands (a-g).

<sup>56</sup> It is generally accepted that at the independence Sri Lanka had a rather consociational than a majoritarian constitution, which presupposed ‘iron-clad guarantees’ for minorities; see also pp. 13-14.

<sup>57</sup> For example, see Article 9 which gives Buddhism the foremost place. Compare this to India, where “secularism” is one of the major principles of the Constitution, meaning both equal and due respect for all religions and faiths as well as separation of the state from the church. The preamble of the Constitution of India declared one of the objectives to be to secure to all citizens of India the freedom of faith, belief, and worship. The chapter on fundamental rights provided a constitutional guarantee to minority groups, incorporating a separate group of rights in Articles 25-28 focusing on the right to freedom of religion.

Diagram 1. Emergence and escalation of Sinhalese-Tamil conflict



The critical junction framework presented in the diagram above, based on a chronological pattern, shows that the escalation of the conflict in Sri Lanka followed an almost deterministic path. In India, however, the power sharing policies had a deescalating and conflict managing effect.

*Bottom-up perceptions of top-down arrangements*

The survey data presented in this section allow me to complete the analysis by bridging the gap between policy implementation and its acceptance, that is, the divide between elite-driven policies and the efficacy of institutional engineering concerning the accommodation of the demands of both minorities and majorities and the legitimacy “in the eyes of the masses” of elite’s enterprise to manage diversity.

Thus, majority-minority status does not make a difference in India, whereas in Sri Lanka minorities are more supportive of democracy than the Sinhala majority. For example, 55 percent of Sri Lanka Tamils and 51 percent Muslims are strong democrats as opposed to only 31 percent of Sinhala Buddhist majority.<sup>58</sup>

Aside from their democratic support, minorities and other marginalized groups in India have exhibited a growing sense of political efficacy and legitimacy for power sharing arrangements, whereas in Sri Lanka minorities declare that their conditions have deteriorated (SDSA 2008: 74).

<sup>58</sup> *State of Democracy in South Asia: A Report*. 2008: 20, 228.

Table 6. India: Political efficacy and legitimacy of democracy among marginalized groups<sup>59</sup>

Year	Political efficacy			Support for Democracy		
	1971	1996	2004	1971	1996	2004
National Average	48	59	68	43	69	72
ST	31	48	59	41	66	68
SC	42	60	65	38	67	69
Illiterate	36	47	55	31	62	61
Women	36	51	61	32	64	67
Very poor	38	51	60	32	64	66
Poor	43	55	68	37	68	71
Muslims	50	60	66	40	72	73

Table 7 shows that despite the controversial issue of personal law, there exists both cross-party and minorities' acceptance of the legitimacy of separate civil code for every religious community in India:

Table 7. India: Separate civil code for every community (Mitra 1999a: 280)

	Congress	BJP	NF	LF	BSP	Total
Disagree	29.6	36.3	28.6	22.0	30.0	30.1
Don't Know/No opinion	24.3	23.3	29.1	18.3	25.1	25.4
Agree	46.1	40.4	42.2	59.7	44.8	44.5
Support for Separate Civil Code (%)						
Hindu	41					
All	45					
Sikh	51					
Christian	53					
Muslim	67					

In terms of "majoritarianism," the following results shed light on my argument that in Sri Lanka democracy was understood in a rudimentary way as a majority rule. Instead of "majorities," as in a consociational democracy, only with the will of the majority segment was reckoned. The results are noteworthy because they compare majoritarian mindset of majority religious communities in India and Sri Lanka.

Table 8. "Majoritarianism" in Sri Lankan and Indian Majority Religion<sup>60</sup>

	Sri Lanka	India
	Majority Buddhist	Majority Hindu
Those who strongly agree or agree that "In a democracy the will of the majority community must prevail"	89.1	48.3
Those who strongly disagree or disagree that "Giving equal treatment is not enough, the government should give special treatment to minorities"	76.8	29.2
"Strong majoritarians" on composite index	26.9	6.7

<sup>59</sup> Source: *India, National Election Study*, various years, quoted in Linz et al. 2007: 101.

<sup>60</sup> SDSA, quoted in Stepan, Alfred. 2006, p. 25.

**CONCLUSION**

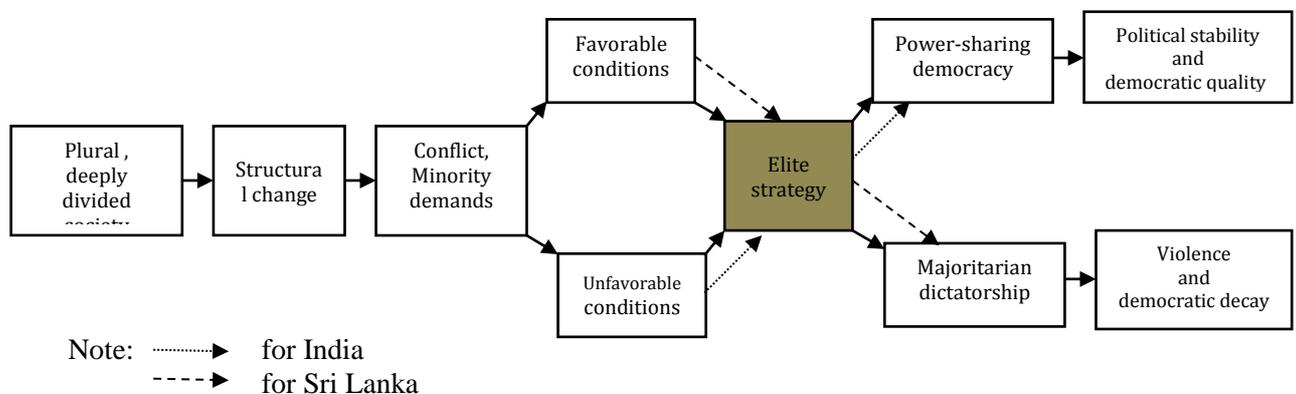
There are several lessons that should be drawn from the analysis of the case studies.

India’s case study supported the first hypothesis that *in a plural and divided society conflict-regulation can be achieved only through adoption of consociational arrangements*. In addition to the analysis with regard to accommodation, empowerment, securing both individual and collective rights and political integration of the minorities in India, a strong point was made in favor of implementation of consociational arrangements for conflict-regulation in plural societies in general. Additionally, the findings have refuted consociationalism’s critics lead by Brass’s stance, according to whom a fully-developed consociational system would be ‘inherently undemocratic’ and would ‘violate both the rights of non-recognized groups and the rights of individuals,’ and that the recognition of group rights would not require consociational democracy (Brass 1991: 334). The Indian State did not always accomplish it through a formal amicable agreement but achieved it through the quintessence of a consociational democracy - *power sharing*. Supported by constitutional stipulations, Weiner’s findings, and survey data, the paper showed that through consociational arrangements the conflicts emerging from the demands of minorities, such as homeland, linguistic recognition, reservation, and security were met.

Sri Lanka followed a diametrically opposed strategy. Despite consociational arrangements, safeguards for minorities, and arguably polity-wide parties (UNP), Sri Lanka’s elites have chosen a majoritarian control system which ultimately transformed the Sri Lankan Tamil stakeholders from “politicians in Parliament, [in]to guerillas in the jungle.” (Stepan 2006: 9-10) Hence, the second thesis, *in a plural and deeply divided society majoritarian practices will exacerbate rather than regulate a conflict*, was also supported.

According to the composite model of conflict regulation in plural societies, elite agency is critical in the conflict-regulating process. In both case studies, it had a galvanizing effect on and played an important role in accommodation or radicalization of conflicts emerged from minorities’ demands for a share of power (see Figure 2).

Figure 2. Case-applied composite model for conflict regulation in plural societies



After over 60 years of majoritarian policies and over twenty years of civil war, the favorable conditions Sri Lanka profited from at the beginning are certainly charred. The end of war on secessionism in Sri Lanka certainly continues to bring new hopes for comprehensive policymaking and institutional engineering, for reconciliation and meaningful integration. Winning the trust and confidence of minorities will be a difficult, but not a futile endeavor. First steps (e.g., Lessons Learned and Reconciliation Commission) are done, but there should be many more to come. While solutions have to be *homegrown*, to be legitimate at least, Sri Lankan stakeholders and decision-makers need to keep an open-mind, let go of regional animosities and look at, if not be inspired from, the lessons India and other plural societies have learned from.<sup>61</sup> Moreover, a durable and robust peace process will not be possible but with a principled participation of Chennai and New Delhi.

The Sri Lankan case confirms how easily majoritarian democracy can degenerate into majority dictatorship. Although majoritarian policies and a system of imposed control on minority communities may assure a facade of peacefully managing the social diversity at first, they will sooner than later lead to not only radicalization of the originally mild demands but also to the exacerbation instead of regulation of conflicts.

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<sup>61</sup> India's conflict management palette, inexplicably ignored up till now, should be seriously considered. Other cases to draw lessons from are Northern Ireland, Canada, Spain or Belgium as well as cases of *complex* power sharing arrangements in Bosnia and Herzegovina, Kosovo, and Macedonia.

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