CULTURAL IDENTITIES AND FEDERALISM: CONTEMPORARY DEBATES

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CERTIFICATE

This is to certify that this dissertation entitled **"CULTURAL IDENTITIES AND FEDERALISM: CONTEMPORARY DEBATES"** submitted by **MR.LAISHRAM BIDHANCHANDRA SINGH** in partial fulfilment of the requirements for the award of the degree of **MASTER OF PHILOSOPHY,** has not been previously submitted for any degree of this or any other University and this is his own work.

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CONTENTS

	Page
Acknowledgements	
CHAPTER I INTRODUCTION	1
CHAPTER II CULTURAL IDENTITY: THE ANALYTIC AND THE NORMATIVE	7
The 'Cultural' Basis of Nationalism *The 'Normative' in Nationalist Claims*	
CHAPTER III THE POLITICAL SOCIOLOGY OF FEDERALISM	48
What is Federalism? *Federalism and Nationalism*	
CHAPTER IV NORMATIVE GOALS AND POLICY IMPLEMENTATION	76
Federal Initiatives in Canada *Federal Innovations in India*	
CHAPTER V CONCLUSION	109
Bibliography	115

CHAPTER I

INTRODUCTION

The world is today witnessing a rise in nationalist assertions and ethnic conflicts. Claims to nationality by 'potential nations' are a common phenomenon in many 'nation states', making one wonder if the nation-state is past its peak in serving the purposes of an 'imagined community' as well as a 'social justice community'. A crisis of the nation-state seems to have been brought about by, among other things, 'sub-nationalist' assertions claiming a right to self-determination, sovereignty, or autonomy.

These demands are contrary to the expectations of the project of modernity, which saw nationalism and ethnicity as opposed to its task of 'order' and the establishment of a rationally designed society as its 'causa finalis'. All forms of attachments to a cultural identity were seen as primitive; and Reason, supreme and unquestionable, was to sweep away social and political beliefs and forms of organisation which were not based on scientific proofs, and legislate for free human beings. The modern was "born as a crusading, missionary, proselytizing force, bent on subjecting the dominated populations to a thorough once-over in order to transform them into an orderly society akin to the percepts of reason".[1]

[1] Zygmunt Bauman, *Modernity and Ambivalence*, Cambridge: Polity Press, 1993, p.20.

It would be wrong to reduce modernity to one single principle of rationalization. It includes much more as it is, in Touraine's words, "a tense relationship between Reason and Subject, rationalization and subjectification, the spirit of Renaissance and that of Reformation, between science and freedom".[2] Nevertheless, the 'gardening ambition' of the modern state, along with the 'legislative reason of philosophy' "sapped the social foundations of communal and corporate traditions and forms of life",[3] which are at the root of the often-violent movements of nationalism.

Current realities also seem to indicate the falsity of the logic of the international nation-state system which should have led to a world consisting of independent nation-state (the twin concept of nation-state meaning that a state should consist of only one nation and every nation should be a state). Instead, we live in a world characterised by diasporic existence and secessionist claims of various nationalities which seem to chime in well with the post-modern turn of celebrating diversity, opposing 'totality' and recognising the 'other'.

With a ceaseless quest for self-determination threatening both the feasibility of the idea of self-determination itself and the very concept of nation-state as a viable political entity, political theory and the state are faced with a challenge of explaining the phenomenon and a responsibility to look for a solution. Two alternatives stand out

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[2] Alain Touraine, *Critique of Modernity*, Oxford: Blackwell, 1995, p.6.
[3] Bauman. Op.cit, p.104.

clearly: to either dismiss nationalism (and all forms of attachments to cultural identities) as "the measles of the human race" (Albert Einstein) and by adding to it that "our emotions are still governed by the instincts appropriate to the small hunting band" (Friederich Hayek),[4] or to find the normative basis for nationalism and work for a democratic conciliation of the problems.

The present work argues for a conciliation and puts forward the central hypothesis that federalism offers itself as a viable solution for arresting (or as an antidote to) the nation-state or sovereign state ambitions ~~by~~ of different cultural communities. Such a formulation is important in the light of a need to rethink the concept of nation-state, because there are in the world today more nations than can be states. Yael Tamir says: "Were nation-states the only way of realising the right to self-determination, its implementation would remain the privilege of only a fortunate few. The merits of a model suggesting that the implications of this right be phrased in more modest terms, is that it allows all nations to enjoy it in some form".[5]

Arguing for the above proposition will have to answer, in the first place, why the nationalist claims should be recognised by a federal conciliation. This further leads to two interrelated sets of questions, the answers to which will respectively form the analytic and the normative of nationalism and cultural identity. The first consists of

[4] Both cited in David Miller, *On Nationality*, Oxford: Clarendon, 1995, p.6.
[5] Yael Tamir, *Liberal Nationalism*, Princeton: Princeton Univ.Press, 1993, p.9.

questions like – what is nationalism? What is at its base? Is it a given or an invention, a creation? How does it endure, and how is it produced? What enables the production of the 'national subject'? The beginning point of the work is for a cultural understanding of nationalism i.e. culture at its base, which maintains that the political aspect of nationalism stands on the cultural base. It has elements of both a given and an invention. And questions of development, justice, and the emotive element attached to it, etc., combine to make possible the production of the 'national subject'. It is attempted through a multiple approach. Once it is accepted that culture and cultural identity form the core of nationalism, another set of questions follows: Why should culture be valued? Above all, is it a value? Why should culture and cultural identity be constitutionally entrenched in a federation? etc. Answers to these questions will form the normative defence of nationalism. The normative and analytic elements are also found in the assertions that people have a desire to rule themselves, and that they are better ruled by themselves. The exploration of the normative will also touch upon the 'liberal-communitarian' debate on the right to culture. However, it does not delve into a critical examination of which position is right, and which wrong and remains out of the philosophical battle of positional superiority. It will, instead, proceed on with, and draw arguments from, a common ground – the recognition by both sides of the value of culture and cultural identity.

That a culture has a value as it is constitutive of one's self-

definition and identity lends credibility to the proposition that a culture should be protected, but is not yet enough by itself to claim a right to culture, without also examining questions of power, politics and democracy. Because, nationalist assertions are rarely removed from issues of political inclusion, exclusion and justice. Any form of inadequate political representation always has a room to be branded as political exclusion. That culture is at the base of nationalist assertions, and a normative defence of this 'base' would, in turn, prepare ground for the next chapter, in which will be argued that federalism offers a conciliation of the two seemingly opposite concepts of democracy and nationalism, as is evident in J.S.Mill's remark that democracy is "next to impossible in multiethnic societies and completely impossible in linguistically divided countries".[6]

If democracy is a desired normative goal and if nationalism (understood as emanating from cultural identities) is another, probably a mix of values has to be worked out. Federalism is seen as offering the mix and hence, an exploration of how it lays down an institutional foundation for a politics of presence, of inclusion, by recognising, among others, the values of the communitarian thought is attempted. It is, accordingly, argued that federalism, democracy and nationalism stand in 'necessary relation to each other', and should not remain as 'non-communicating discourses'. Federalism also points to the fact that the upsurge of ethnic and nationalist conflict necessitates a rethinking

[6] Cited in Arend Lijphart, "The Puzzle of Indian Democracy: A Consociational Interpretation", *APSR*, Vol.90, No.2, June 1996, pp.258-68.

of the concepts of 'nation-state' and nationalism in that the 'imagined community' of the 'nation-state' may contain within it many other (forms of) imagined communities. Whichever way they are imagined on the basis of a 'subjective identity of difference' of 'we and others', they can no longer be dismissed once it is established that cultural identities (can) shape political loyalties. In the light of this, the federal principle is put forward as a way of coping with the political problems of cultural identities.

The fourth chapter will examine how the principle is sought to be put in policy implementations aimed at achieving the normative goals of reconciling democracy and nationalism, of granting 'self-rule' to cultural communities while maintaining a unity through a common 'shared-rule'. Two countries – Canada and India - have been chosen for a comparative exploration. Both countries have undergone colonialism and inherited British political institutions. The choice of Canada is significant, for it can better illustrate the point that nationalist assertions can take place even in highly advanced, industrial societies. The last chapter is presented in the form of a conclusion, which reflects upon the whole theme of constitution-making and federal exercises in multicultural societies.

CHAPTER II

CULTURAL IDENTITY: THE ANALYTIC AND THE NORMATIVE

A. The 'Cultural' Basis of the Nation

Ours is an age of globalisation, in which parallel to the forces of time-space comparison and due to the fragmentation of the identity of both the individual self and national cultures, there is also a proliferation of 'identity choices'. The proliferation is true if one accepts that "national identities are not literally imprinted in our genes"; they are "formed and transformed within and in relation to representation. We only know what is to be "English" because of the way "Englishness" has come to be represented, as a set of meanings".[1] Despite choices, then, why do people resort to movements that are labelled, often with dismissive overtones, as ethnic or sub-nationalist? For a satisfactory answer to this question, one needs to examine what is so important about the nation which these movements aim at. That should in turn, be preceeded by the questions – what is the nation and what is at its base?

This part of the chapter argues that nation and national feeling are most importantly grounded on a cultural basis. The nation is a cultural body. Culture and cultural identity constitute its backbone, and form the mobilizing ground, even if there are elements of invention and construction in it. It is maintained that the political aspects of nation

[1] Stuart Hall, "The Question of Cultural Identity" in S.Hall, D. Held and T. McGraw (eds.), *Modernity and Its Futures*, Cambridge: Polity, 1993, p.292.

and nationalism necessarily stand on the cultural ground. The latter forms the basis for the first and not vice-versa. Such a view is not to be construed as an endorsement of the primordialist theory that nations are a 'given' and only an outgrowth of pre-modern ethnies. What is contended, instead, is that even while acknowledging the elements of construction and invention, the nation is imagined and invented on a cultural basis; it does not come from a vacuum, or anywhere else. While maintaining that nations stand on culture, it argues that the sub-nationalist movements should be understood as political demands of cultural communities. This understanding of nation on the basis of culture and cultural identity will serve as the preparatory ground for a normative defence of the same in the next section of the chapter. While the nation is cultural at its core, an account of the rise of nationalist assertions cannot rely on a single approach, and hence, different theoretical accounts are also explored in this part.

Definitional disagreements and lack of analytic consensus characterize the discourse on nations and cultural identities. This is not to rule out any sort of commonality in various approaches. The best way to start the analytic is by examining the concepts and by finding out what the phenomena and the problematics are. This is necessitated since the concepts are already inflected with a repertoire of meanings.

The most frequently used term is an ethnic group. Attempts to define it goes back to Max Weber according to whom ethnic groups are "those human groups that entertain a subjective belief in their common

descent because of similarities of physical type or of customs or of both or because of memories of colonisation or migration"[2] His definition has both subjective and objective characteristics with an emphasis on the former. Elements of this all-embracing definition have been retained in latter attempts seeking a better explanation. H.S.Morris says, it is 'a distinct category of the population in a larger society whose culture is usually different from its own. The members of such group are, or feel themselves, or are thought to be, bound together by common ties of race, or nationality to culture".[3] Here culture is the main defining criterion. This is visible in the common features such as origin, language, religion, food, traditions, folklore, music and even residential patterns. The 'features' all come under a broad concept of culture. And culture is significant for instilling a sense of distinctiveness. In line with it is Urmilla Phadnis' conception that it is "a historically formed aggregate of people having a real or imaginary association with a specified territory, a shared cluster of beliefs and values connoting its distinctiveness in relation to similar groupings and recognised as such by others".[4] What is significant is that it has a "self-defined and 'other-recognised' status".[5]

Anthony Smith lists six characteristics of an ethnie – a collective

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[2] Max Weber, "What is an ethnic group" in M.Guibernau and J.Rex (eds.), *The Ethnicity Reader: Nationalism, Multiculturalism and Migration*, Cambridge: Polity, 1997, p.18.

[3] H.S.Morris, 'Ethnic group' in *International Encyclopedia of Social Sciences*. (eds.) David L.Sills. London: Collier- MacMillan, 1968, Vol.5 and 6.

[4] Urmilla Phadnis, *Ethnicity and Nation-building in South Asia*, Delhi: Sage. 1990, p.14.

[5] Ibid.

name, a common myth of descent, a shared history, a distinctive shared culture, an association with a specific territory and a sense of solidarity.[6] It is in line with his contention that all modern nation-states originated out of an association with an ethnie at one point in history. T.K.Oommen, on the other hand, contends that Smith's characterization 'fits the concept of a nation equally well",[7] and offers his own definition – "An ethnie is a cultural collectivity that is outside its ancestral territory – actual (eg. European Jews) or imagined (eg. Gypsies)". "If and when an ethnic identifies with a territory, it becomes a nation".[8] By his parameters, all the cultural collectivities with a territory of its own would be a nation, regardless of whether these communities are politically self-conscious or not, whether they claim political rights of self-rule or self-determination. However, in line with other writers the 'cultural' part is underlined. Contrary to Oommen's conception, it will be maintained here that the distinguishing mark between an ethnie and a nation is 'political self-consciousness".

Paul Brass too differs from Smith's conception. Primordialists see ethnicity (the phenomenon of identifying with an ethnic identity and consequences thereof) as given. For Brass, the 'inevitability' of ethnic identity and its subsequent evolution into nationalism does not

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[6] Anthony D.Smith, *The Ethnic Origin of Nations*, Oxford: Basil Blackwell. 1986. P.24.

[7] T.K.Oommen, *Citizenship, Nationality and Ethnicity: Reconciling Competing Identities*, Cambridge: Polity, 1997. P.35.

[8] Ibid., p.36.

exist.[9] The two phenomena are social and political constructions by elites 'who draw upon, distort, and sometimes fabricate materials from the cultures of the groups they wish to represent".[10] The purposes of the creation may be for the group's well-being, political and economic advantage etc. According to him, the existence of 'sporadic types of interactions between leaderships of centralizing status and elites from non-dominant ethnic groups' are necessary for ethnic and nationalist assertions to arise.[11] Edwin N.Wilmsen makes a similar point: "(e)thnicity arises only in the exercise of power. It has no singular construction; there must always be two, usually more ethnicities to be defined against each other"[12] in the context of a wider political field.

While Oommen disagrees with Smith definitionally, their common point is on the given nature of culture; the differences being that territoriality is absent in Oommen's conception of an ethnic group. Brass, although disagreeing with the primordialist view does not discount a cultural basis for ethnicity and nationalism. The creation of the identity by elites still works upon a cultural identity. The point to be noted is that whichever approach one follows, the cultural basis stands unaffected. It makes stronger the proposition that both an ethnie

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[9] Paul R.Brass, *Ethnicity and Nationalism: Theory and Comparison*, Delhi: Sage, 1991, P.13.
[10] Ibid., p.11.
[11] Ibid., p.8.
[12] Edwin N.Wilmsen, "Introduction: Premises of Power in Ethnic Politics" in Edwin N.Wilmsen and P.Mc Allister (eds.), *The Politics of Difference: Ethnic Premises in a World of* Power, Chicago: The Univ. of Chicago Press, 1996, p.4.

and a nation are to be understood as 'cultural communities' and that the differentiating factor between the two is the political-consciousness in the case of the latter. The instrumentalist view of ethnicity adopted by Brass – as a process created in the dynamics of elite competition and Wilmsen's contention that "(e)thnic identification can never be explanatory; it is necessarily a constituted phenomenon"[13] do not undermine the significance of cultural identity in this 'constituted phenomena'. Brass, in fact, underscores it while accepting that ethnicity consists of the 'subjective, symbolic or emblematic use...of any aspect of culture in order to differentiate themselves from other groups".[14] Phadnis too grants that the primordialists' emphasis on cultural attachments is well taken.[15]

The clarification on the concept of 'ethnie' has been necessary since it has been usually conflated with that of 'nation'. That being done, it is appropriate to analyse the concept of the nation. It has come to be identified with a state or its inhabitants. It has, like an ethnie, both subjective and objective characteristics. Objective characteristics usually include geography, history, economics, etc. and subjective ones emphasise consciousness, loyalty and will. Dunkwart A.Rustow says the subjective formulations are usually genuine attempts at definition whereas the 'objective definitions' are generally more or less adequate attempts at explanation. The objective characteristics "are likely to

[13] Wilmsen. Op.cit.p.6.
[14] Brass. Op.cit.p.19.
[15] Phadnis. Op.cit.p.16.

promote feelings of nationality but are not among the defining characteristics of a nation".[16] Because it is not necessary for a nation to have all the characteristics. Such characterisation only adds to the confusion of ethnie with nation and therefore, is not analytically helpful.

Anthony Smith lists seven characteristics of a nation namely size, economic integration, territorial mobility, a distinctive culture, external relationships, equal membership rights and group loyalty.[17] This characterisation incorporates elements of the modern state, and Oommen rightly says that Smith conflates nation and state. Citizenship rights, territorial mobility and size are not essential elements of a nation.[18] Smith, while maintaining that nations arise from common ethnicity and common culture, however, draws attention to the fact that modern nations are 'mass nations', legitimated by nationalist ideology, in that the designated population becomes a sovereign nation and thus, a nation is a 'legal-political' community as well as a historical cultural community.[19] It is political because of their exercise of self-government. According to him, modern nations are also a basis of wider international system which are 'pre-eminently territorial' in character. These formulations in his later work still cannot answer to Oommen's 'charge, because in Smith's 'conception. before the state

[16] Dankwart A.Rustow, 'Nation' in *IESS*. Op.cit. Vol.11&12.
[17] Anthony. Smith, *Theories of Nationalism*, London: Duckworth, 1971, p.318.
[18] Oommen. Op.cit.p.30.
[19] Anthony D.Smith. *Nations and Nationalism in a Global Era*, Cambridge: Polity, 1995. P.54-6.

came into existence, the 'modern nations' were not nations but simply ethnies. And worse yet, today's cultural communities without a state would not qualify to be called nations. In this understanding there is no place for the principle that a nation has a right to a state, because a nation already incorporates the state.

A nation is, as Oommen says, a cultural concept while the state is a legal one. However, there is a problem in his emphasis on territory: 'The nation is a territorial entity to which the nationals have an emotional attachment and in which they invest a moral meaning; it is a homeland ancestral or adopted".[20] Any cultural community with a territory and a language would be a nation" 'a nation is a community in communication in its homeland".[21] For Oommen, "if and when an ethnie identifies with a territory, it becomes a nation".[22] But he leaves unanswered whether two ethnies become one nation when both claim the same territory or remain two nations. A territorial identification may not necessarily be political. His formulation has no room for political ambitions of nations. It also fails to recognize the emotive, and uncertain elements in the existence of a nation, which Renan's famous remark underlines – "A nation's existence is a ...daily plebiscite" "just as an individual's existence is a perpetual affirmation of life".[23]

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[20] Oommen Op.cit. p.14.
[21] Ibid.
[22] Ibid. p.36.
[23] Ernest Renan, "What is a Nation" (1882) trans. Martin Thom, in Homi K.Bhabha (ed.), *Nation and Narration*. New York: 1990, pp.11,19.

The political consciousness is given importance in Nagi's definition – "By nation we mean an ethnic group that (1) shares one or more identifying characteristics such as language, religion, racial background, culture and/or territory; (2) is politically mobilized and/or amenable to such mobilization".[24] The first states that it is not necessary to have all the features and the second draws a distinction from an ethnic group. However, this definition points to only an ethnic origin of nations and precludes the fact that a nation might originate from more than one ethnic group and hence it is prone to the charge that a nation of this kind recognises only 'ethnic-nationalism' but excludes 'civic-nationalism'.

David Miller clears the confusion, as according to him, when the question whether each nation has a right to its own state is posed, 'nation' must refer to a community of people. With an 'aspiration' to be politically self-determining and a state must refer to a set of political institutions that they may aspire to possess for themselves. He agrees that "both nations and ethnic groups are bodies of people bound together by common cultural characteristics and mutual recognition" and concedes that "typically, though not always, a nation emerges from an ethnic community that furnishes it with a distinct identity and "ethnicity continues to be a possible source of new national identities".[25] Such a situation might arise especially if their identities

[24] Saad Z.Nagi, 'Nationalism' in *Encyclopedia of Sociology*, Vol.3. (ed.), Edgar F.Borgotta. N.York. McMillan, 1992.
[25] David Miller, *On Nationality*. Oxford: Clarendon, 1995, pp.19-21.

are threatened or legitimate political aspirations are denied. At the same time he insists on the existence of countries – "Even nations that originally had an exclusive ethnic character may come, over time, to embrace a multitude of different ethnicities. It is perfectly possible for ethnicity and nationality to co-exist ... Everything depends on whether the ethnic group feels secure and comfortable with its national identity and the political institutions that correspond to it".[26] Miller's formulation allows for both 'civic' and 'ethnic' nationalism and does not suffer from the eighteenth and nineteenth century formulations, which sees nation simply as part of the modernising process. (*ethnic* – nationality as inherent, *civic*-nationality as identical with citizenship, rationality can be acquired).[27]

Different approaches and conceptions on what is a nation have so far been analysed. The work, is concerned with the (sub) nationalist movements and maintains that these assertions are to be understood as the political demands of cultural communities. The above analysis has shown that nations are first and foremost cultural communities, distinguished from others by a political self-awareness. This is how the nationalist claims should be understood. These movements aspire to a complete self-determination or some form of self-rule. They are nationalist because they aspire to the political rights of a culturally common group of people. They either have or aspire to a nationalism which "centres the supreme loyalty of the overwhelming majority of

[26] Ibid. p.21.
[27] Liah Greenfield, *Nationalism: Five Roads to Modernity*, Cambridge, 1992. P.11.

the people upon a nation-state either existing or desired".[28] The above formulation is supported by Hans Kohn, who says: "In nationalities that are striving for the creation of a nation-state, the quest for cultural self-determination precedes the quest for political self-determination and prepares the ground for the latter".[29] A few more words need to be said, however, on the construction and production of the national subject before finally concluding on the cultural base of nation and nationalism. Nationalism means loyalty to a nation. It is also an ideology as it asserts that a nation is entitled to the political right of self-determination. Understanding nationalism, therefore, depends on one's understanding of a nation.

Smith says: "Nationalism itself teaches that all nations have a past".[30] For him, that 'past' is derived from an ethnicity at a point in history. for others, this is an 'invented' past. The past is invented as a tradition to sustain a national identity. Eric Hobsbawm calls this an invented tradition – "a set of practices, normally governed by overtly or tacitly accepted rules and of a ritual or symbolic nature, which seeks to inculcate certain values and norms of behaviour by repetition, which automatically implies continuity with the past".[31] According to the invention–thesis, the existence of any objective cultural differentiation is not necessary for national identities. What matters is a subjective

[28] Hans Kohn, 'Nationalism' in *IESS*. Op.cit. Vol.11.
[29] Ibid.
[30] A.D.Smith, *Theories of Nationalism*, London: Duckworth, 1983. P.XXVI.
[31] Eric Hobsbawm and T.Ranger (eds.), *The Invention of Traditions*, Cambridge: CUP, 1983, P.1.

experience of difference which can be moulded. It is more comfortable with the idea of the nation as a modern phenomenon. Greenfield goes to the extent of saying that the nation is a "constitutive element of modernity".[32] We can undertake an examination of the views linking nation with modernity and argue that culture retains a predominant position in this approach as well.

According to Kohn, the idea of nationalism was developed during the Enlightenment period, which witnessed the desacralization of the monarchy and the rise of individualism. It was an intellectual response to the fear of social foundations getting destroyed by individualism which lacked "the integrity force of creating a new symbol as the centre and justification of society".[33] Understood in this way, nationalism was not irrational or reactionary. Nationalism was meant to deal with the problems of political, social and cultural integration.

Another work that linked nationalism to modernity was that of Ernest Gellner[34] according to whom nationalism is embedded in the history of industrialization and capitalism. The growth of modern economy necessitated mobile populations who read the same language. The new economic facts needed integrating structures like language that was provided by national cultures. With a Marxist twist,

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[32] Greenfield. Op.cit.p.18.
[33] Hans Kohn, *The Idea of Nationalism: A Study in its Origins and Background*, New York. 1944. P.237.
[34] Ernest Gellner, *Nations and Nationalism*, Oxford: Blackwell, 1983.

Hobsbawm[35] makes a similar point. Nationalism during the "liberal era" (1830-80) helped to justify the creation and integration of larger territories. It meant well for the expansion of capitalism. It was a way of ignoring internal differences and economic conflicts by celebrating linguistic or racial traits.

These works are mentioned not because they give a true picture of what nationalism is. They are confined to the origin of nationalism in the West. What is noteworthy is that while these works lay emphasis on a constructionist or instrumentalist view, (nationalism as a necessity of the modern condition) they nevertheless insist that nationalism works upon culture.

Stressing the significance of culture, Benedict Anderson argues that nations are communities imagined through culture. He says that "nation-ness, as well as nationalism, are cultural artifacts of a particular kind"[36] and defines the nation as "an imagined community - and imagined as both inherently limited and sovereign".[37] It is a modern phenomenon in that the imagination is enabled by newspapers, books, novels with new cultural narratives. The imaginative act was done on culture. In Anderson's words, "nationalism has to be understood by aligning it, not with self-consciously held political ideologies, but with the large cultural systems that preceded it, out of

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[35] E.J.Hobsbawm, *Nations and Nationalism since 1780's Programme, Myth, reality*, Cambridge: CUP, 1990.
[36] Benedict Anderson, *Imagined Communities: Reflections on the origin and Spread of Nationalism*, London: Verso, 2nd rev.edn. 1991. P.4.
[37] Ibid. p.6.

which – as well as against which – it came into being".[38] Nations are the result of processes of active creation and imagination, part of a cultural system that orders and gives meanings to the world and to our place in it.

Anderson's imagination-thesis has an important corollary. It is imagined because members of a nation do not know all the other members. Only those belonging to the same culture are imagined. "One of the most puzzling aspects of differentiation of cultural groups is", Thomas Scheff says, "why it is that one might feel more in common with people one doesn't actually know, than with one's neigbours, that is with persons one does know... Why is an imagined community chosen over an actual one?"[39] A preliminary answer to it would be based on the importance of culture. It might say or assume that there is a deep, intrinsic, psychological need for humans to belong to a culture.

The above theories assume something about human nature but avoid psychological explanations". To study nationalism and ignore its affective, emotional aspects would be a folly because theories that seek "to explain nations and nationalism purely by reference to 'structural' factors still have to account for the agency that is evidently a part of nationalism and for the fervour, loyalty and passion that it can

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[38] Ibid. p.12.

[39] Thomas Scheff, "Emotions and Identity: A Theory of Ethnic Nationalism", in Craig Calhoun (ed.) *Social Theory and the Politics of Identity*. Oxford: Blackwell, 1994, pp.278-79.

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aspire".[40]

The production of the 'national subject' is a construction of a 'We' of nation. It involves "presentation of traits, values and attitudes as products of a national character", and is a mode of characterisation from which people use "taken-for-granted" forms of knowledge in the construction of mental maps of meaning".[41] Discursive social psychology enquires how attitudes are directed and formed to produce a specific version of an 'object', in this case the nation. It analyses "the active use of, and engagement with language in everyday practice, stressing context, variability and the construction of objects in discourse". The self is thus interpreted in terms of the strategic, and ideological construction of self-concepts through forms of discourse". The rules and maps that inform such discourses are not static but malleable". This is how national narratives are built up to produce an individual self, which thinks in terms if a 'we' and, thus, the identification starts.*

For Adorno, nationalism should be seen in terms of the psychic impact of the "Dialectic of Enlightenment". The domination of nature, according to him, resulted in the domination of man by a reified 'totally administered world'. Individual ego becomes destroyed and people became emotionally impoverished. According to Adorno, "with

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[40] Alan Finlayson, "Psychology, psychoanalysis and theories of nationalism", *Nations and Nationalism*, 4(2) 1998, pp.145-62.

[41] Ibid.

* All citations of Adorno and Zizek are taken from A.Finlayson, "Psychology, Psychoanalysis and Theories of Nationalism." art.cit.

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the destruction of the ego, narcissism, or its collective derivative is heightened". Through identification, the ego achieves an illusory sense of containment. With identification with the nation, we become nationalised narcissists". "The 'collective derivatives' of narcissism include identification with mass groups and the grounding of identity they prefer".

Zizek says, "the element which holds together a given community cannot be reduced to the point of symbolic identification – the bound linking together its members always implies a shared relationship towards a thing (...) this relationship towards the thing ...is what is at stake ..."[42] The 'thing' is a 'unique' set of properties that make up the specificity of a nation and is 'enjoyment incarnated'. "For the formation of the subject something must be repudiated (...)This crisis, this 'lack', is itself constitutive of subjectivity (...) The lack can appear to be transcended in the imaginary (...) wherein the subject misrecognises itself as possessing a greater degree of fullness than it does (....) Subjectivity involves the covering over of this fundamental lack through phantasmatic assumptions of fullness, closure and resolution often achieved through the 'organisation of enjoyment' through an other. It is this that offers the key to understanding nationalism and ethnic conflict".[43]

The psychoanalytic approaches point to the need of the

[42] Slavoj Zizek, "Tarrying with the Negative", 1993, p.201. Cited in Finlayson, art.cit.
[43] ibid.

individual self, ego, to be identified with a group for a satisfaction of a lack in the subject or an illusory fulfillment of ego. However, such approaches offer little in explaining the nationalist assertions within an existing nation or state. Why is it that some people choose not to identify with the existing one any longer? These approaches have been presented briefly, as they can complement the structural theories of nationalism. But, for a fuller understanding of nationalist assertions, we need to go further and examine questions of justice, equality and development, etc.

The imagined community of the nation had its own purposes. A nation was to form a state and thus, the nation-state was created to act as an agent of equitable development. Thus, a nation-state is no longer an imagined community only but also a social justice community. Until recently, it was hoped that the nation-state should assimilate all forms of ethnic identities within its boundaries, because the nation-state, by definition, is supposed to be a homogeneous community. It is in this light that the rise of nationalist movements within a nation-state should be understood.

The understanding of nationalism one has adopted is crucial to the explanation of the nationalist movements. Taking the view that nationalism is "the ideological clothing of state power, so that the strength of the nation-state myth was dependent upon the receptivity of civil societies to the developmental promises of state elites", David Brown says, "when faith in the capacities of state elites declined, this

was reflected in the declining appeal of their nationalist vision and individuals began to search for new imagined kinship communities able to promise social justice".[44] New state elites, he says, during the twentieth century and particularly after the Second World War, portrayed themselves as agents of equitable development and thus constructed the image of the nation as the social justice community. They were engaged in the task of constructing a 'natural' and 'biological' nation "by selectively reinterpreting historical symbols so as to portray the society within the state in largely mythical terms of historical continuity, claiming descent from premodern communities depicted in ethnic terms". This task was helped by a resonance with the imagining of civil society, after the disruption of face to face communities of family and locality by industrialisation and colonialism. However, the current ethnic nationalism should be understood as a search for new 'imagined alternatives' as a result of the 'crisis of legitimacy' and disillusionment caused by a gap between promised redistributive social justice and the capacity of the state to deliver it. Brown makes three important points: (1) once the social justice community model had been invoked, socio-economic disparities could be cited to disprove the 'one nation' claim, (2) Since cultural minorities have frequently been proportionately disadvantaged in the development process, the socio-economic interests of the disadvantaged can be convincingly portrayed as the cultural rights of

[44] David Brown, "Why is the nation-state so vulnerable to ethnic nationalism?" *Nations and Nationalism*, 4(1), 1998, pp.1-15.

authentic ethnic nations, (3) If the state claiming to be the cultural nation cannot offer the necessary protection, then it is the cultural nation claiming to be the potential state which offers the next best bet.[45]

Brown's analysis poses nationalism vis-à-vis questions of development only. While his explanation offers a lot in the understanding of nationalist assertions, he entirely leaves out the issue of cultural membership. Nationalist claims make, above all, normative claims. The normative claims are usually grounded in culture and cultural identity. Questions of cultural identity are, at the same time, intricately linked to politics. That is the reason behind the formulation that nationalist assertions are political demands of cultural communities. Cultural communities – because it has been argued that – both nation and ethnie are primarily cultural groupings. But people's use of the term follows the dictates of their biases: 'ethnic group' is a preferable term for the majority – the dominant group to describe the nationalist movement while nation is used by the members of the community demanding political rights. Ethnicity has unwelcome connotations – something to be dismissed while nationality supplies authenticity. The theories all differ from one another and the deployment of the terms outside the academic discourse can be manipulated. "Ethnicity is only unacceptable when it is used for

[45] Ibid.

reasons unacceptable to dominant social interests".[46] That happens in academics as well: "The cultural construction of scholarship, like the cultural construction of nationalisms, is a dynamic process, dependent on relations of identity and difference..."[47] Kramer was referring to the continuous growth of scholarship. Nevertheless, the cultural context is significant for any malleability to suit some purposes.

The analytical part has been aimed at showing that the nation is primarily a cultural body with many facets. Modern nations possess social and state institutions committed to its perpetuation. Despite this, the nation-state is threatened by claims to nationality within its boundaries. This could not be explained by reference only to questions of development, for such claims bring along with them normative claims. The examination of the normative is undertaken in the next section.

B. The 'Normative' in Nationalist Claims

Nations are primarily cultural communities; what distinguishes a nation from other cultural communities are the political aspirations it possesses. That is to say that a nation is a politically self-conscious cultural community. Following this line of thinking, it has been argued

[46] Timothy Shaw, cited in Jan Naderveen Pieterse, "Varieties of Ethnic Politics and Ethnicity Discourse" in Edwin N.Wilmsen and P.McAllister (eds.), Op.cit., p.40.

[47] Lloyd Kramer, "Historical Narratives and the Meaning of Nationalism", *Journal of the History of Ideas*, Vol.58, No.3, 1997, pp.525-45.

in the previous section that nationalist assertions are political demands of cultural communities. Why nationalist claims are made within an existing (nation-) state can be explained from various viewpoints – the psychological need of humans, the fulfillment of a 'lack' in the ego in the form of group identification, the developmental processes which leave cultural minorities disproportionately disadvantaged, and its depiction by counter-elites as a failure of the existing nation-state to serve the purpose of a social justice community, etc. Any of these factors could lead to a new search for an 'imagined alternative'. But, why is this search for a new 'imagined alternative' always grounded or found in a cultural community? Why does a cultural community get mobilized with such apparent ease, as if they were only natural? It should be noted here that a cultural community is one sharing a common cultural identity. This, in turn, leads to asking – Is culture a value? Why should it be valued?

This part of the chapter will argue that nationalist assertions make some normative claims about cultural identity and its political dimensions. A look into the normative will reveal that nationalist assertions cannot simply be branded and dismissed as cultural narcissism and a fantasy for difference. Nationalist assertions are seen as a form of, or as incorporating elements of varying forms of politics – the politics of difference, presence, or oppositional politics. Such a politics rests on identity. It is maintained here that identity is a value. The concept of identity deployed here is a non-essentialist, non-

monolithic one. It does not dispute that in our age, an individual's identity is fragmented. However, fragmentation does not mean that it has no unity of any sort. Some kind of unity must be there particularly if a politics has to take place. In this light, the politics of nationalist claims are seen as having a unity in the cultural identity they are based on. And, identity is important since even morality is shaped by a community. A reflection on morality does not start in vacuum. The normativity will also be explored in relation to issues of appropriating justice, equality, and the ethical elements associated with national membership.

Nationalist assertions rest in a cultural community's need of asserting its differences and also on the identification by people as members of (marginalised) communities. In other words, "the need (for recognition) is one of the driving forces behind nationalist movements in politics", because "non-recognition or misrecognition can be a form of oppression, imprisoning someone in a false, distorted, reduced mode of being".[48] Hence understood, nationalist movements (read sub-state/sub-nationalist) are a form of "oppositional politics" which, Honi Haber says, "appropriates the law of difference to keep before it the fact that any unity can always be desconstructed".[49] The movements go against the over-arching identity of an existing 'nation-state'. Members

[48] Charles Taylor, "The Politics of Recognition" in David Theo Goldberg (ed.), *Multiculturalism: A Critical Reader*, Oxford: Blackwell, 1994, p.25.
[49] Honi Fern Haber, *Beyond Postmodern Politics: Lyotard, Rorty, Foucault*, London: Routledge, 1994, p.123.

of such movements, it may be maintained, no longer participate in the idea of the existing nation, which "is not only a political entity but something which produces meanings – *a system of cultural representation*. People are not only legal citizens of a nation; they participate in the *idea* of the nation as represented in its national culture".[50] People claiming to form a different nation believe in a community, in a 'national' culture, which is 'their' own and different from others. Any nationalist movement would claim that they are a community – a people united by common history, language, customs, traditions, and interests i.e. they are a nation. "Given these features, it is unsurprising that nations aspire to be states, or indeed that they regard this conditions as their final end".[51]

This grounding of nationalist claims in a community may be controversial as it attempts to translate the cultural community into a political community or a 'political society' as Rawls prefers it. For Rawls, a community is "a society governed by a shared comprehensive, religious, philosophical, or moral doctrine" and "Liberalism rejects political society as community because, among other things, it leads to the systematic denial of basic liberties and may allow for the oppressive use of the governments' monopoly of (legal) force".[52]

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[50] Stuart Hall, "The Question of Cultural Identity". art.cit.292.

[51] John Haldane. 'The Individual, the State and The Common Good' in E.Frankel Paul, Fred D.Miller et. al (eds.), *The Communitarian Challenge to Liberalism*, Cambridge: CUP, 1996.

[52] John Rawls, *Political Liberalism*. New York: Colombia University Press, 1993, pp.42, 146. Also cited in Chandran Kukathas, 'Liberalism, Communitarianism and Political Community' in E.Frankel Paul et.al (eds.) Op.cit. p.88.

However, as Chandran Kukathas says, "Rawls' argument is based on a very specific, and somewhat narrow, understanding of community. For him, a community is a society united in affirming the same comprehensive doctrine".[53] Any community may have differences in it and should not be taken as a homogeneous uniform whole.

Another charge that can be levelled against nationalist movements based on cultural identity is that identity is taken to be unchanging, singular and forever imprinted on us in an age that is witnessing the decentering of the subject. Stuart Hall says: "The subject assumes different identities at different times...within us are contradictory identities pulling in different directions".[54] There is a hybridity and diaspora of both individuals and communities thereby making a dialectic of identities a continuous process. Is it, then, worthwhile to talk of identities of cultural communities?

The answer starts taking shape if one contends in the beginning that to argue for a cultural identity is not to argue for a monolithic and essential conception of identity. However, recognising differences "does not mean that differences has to begin (...) from nowhere (...) There is no view from nowhere; every view is the viewpoint of some formed or forming vocabulary, a vocabulary which is both the product and effect of some community".[55] Haber says: "Difference must not be erased – indeed it *cannot* be erased – but neither can it, nor should it,

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[53] Chandran Kukathas, Ibid. pp.88-9.
[54] "The Question of Cultural Identity." art.cit. p.277.
[55] Haber. op.cit.

always be our guiding principle. We must be wary of difference becoming the grand narrative of the post-modern age".[56] While difference is a reality, a politics should also take place; and politics necessitates a unity and a structure as well. A never-ending difference cannot provide the basis for oppositional politics. It is important to note here that nationalist movements cannot be said to be claiming that the cultural identity they are based on is the final unity. Nevertheless some sort of unity derived from, and provided by, such identity enables them to undertake the movement.

It is crucial also to note that identity has political implications. Stuart Hall says,

"(I)dentities are about questions of using the resource of history, language and culture in the process of becoming rather than being; not 'who we are' or 'where we come from', so much as what we might become, how we have been represented and how that bears on how we might represent ourselves...They relate to the invention of tradition as much as to tradition itself, which oblige us to read not as an endless reiteration but as 'the changing same'(...) not the so-called return to roots but as coming-to-terms with our 'routes'".[57]

Identity is usually understood to be valuable as it is constitutive of one's self-definition, of who one is. But is self-definition so important to allow a politics to take place around this? This points to

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[56] *Ibid.*

[57] Stuart Hall. 'Introduction: Who Needs Identity?" in *Questions of Cultural Identity* S.Hall and Paul Du Gay (eds.), Sage, 1996, p.2.

the broader issues at stake. Hall captures the political significance of the question of identities. It is not merely a question of 'who we are' but of 'routes' and 'representation'. Some routes of the past may have been painful and people may hope for a better one for a future they and their children have to live. And representation affects the present as well as the future. Part of the answer why a politics is involved can be found in the process of identity formation itself. Identity, whether of an individual or a community, is not acquired through a unilateral, one sided process. Taylor says:

"(m)y discovering my own identity doesn't mean that I work it out in isolation but that I negotiate it through dialogue, partly overt, partly internal, with others. That is why the development of an ideal of inwardly generated identity gives a new importance to recognition. My own identity crucially depends on my dialogical relations with others".[58]

There is a politics involved – a struggle takes place – precisely because "(w)hat has come about in the modern age is not the need for recognition but the condition in which the attempt to be recognized can fail."[59] It is only in relation to the other that identity is formed. And relations are not free from power.

Identity is about dignity too. Equal dignity had led to

[58] Charles Taylor. art.cit.p.80.
[59] Ibid.

'equalization of rights' – 'an identical basket of rights and immunities'. But to give a fuller and more meaningful content to dignity calls for a recognition of the unique identity of individuals and groups. "The idea is that it is precisely this distinctness that has been ignored, glossed over, assimilated to a dominant or majority identity. And this assimilation is the cardinal sin against the ideal of authenticity."[60]

The relation with the other, what Charles Taylor calls the 'significant other' is the most crucial point. There is a dialogue with, and a struggle against, what "our significant others want to see in us."[61] Or, in the words of Stuart Hall, "it is only through the relation to the other, the relation to what it is not, to precisely what it lacks, to what has been called its *constitutive outside* that the 'positive' meaning of any term and thus its 'identity' – can be constructed."[62]

If identities are relational, it is again crucial to be reminded that relations tend to be hierarchical – there are forces of dominance, superiority and inferiorization working in it, because, identities are "produced in specific historical and institutional sites within specific discursive formations and practices, by specific enunciative strategies... they emerge within the play of specific modalities of power..."[63]

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[60] Ibid., p.82.
[61] Ibid., p.79.
[62] "Who Needs Identity", art.cit. p.4.
[63] Ibid.

The linkage between identity and community (a cultural one for the present work), that has been partly presumed and partly built up above, is not yet sufficient to dispel doubts about the 'genuineness' of a community. Putting up a model of political organisation based on the model of identity and difference is not without serious problems if the community aims at 'closure'. Complaining that 'discussions of multiculturalism too quickly assume a necessary relation between identity and culture, Grossberg says:

"What constitutes such a politics is the assumption of a self-defined constituency acting in the interest (for the politics) of that definition. Within such constituencies, every individual is a representative of the totality. But in fact, such constituencies do not and need not exist, except as the work of power – or of articulation."[64]

It needs to be clarified here that a politics of difference does not aim at a totality with a closure. It does not maintain that identity is a 'pre-given' only. What it contends, on the contrary is that culture is a provider of identity for those who identify with it. "The representation of difference", Homi Bhabha says, "must not be hastily read as the reflection of *pre-given* ethnic or cultural traits in the fixed tablet of tradition".[65]

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[64] Lawrence Grossberg. "Identity and Cultural Studies: Is That All There Is." In S.Hall and Paul du Gay (eds.), *Questions of Cultural Identity*. Op.cit. pp.87-88.
[65] Homi K.Bhabha. 'Introduction: Location of Culture in Homi K.Bhabha – *The Location of Culture*. London: Routledge, 1994, p.2.

"Social differences are... the signs of emergence of community envisaged as a project – at once a vision, and a construction – that takes you beyond yourself in order to return, in a spirit of revision and reconstruction to the political *conditions* of the present?"[66]

The worry over thinking in terms of community is pronounced in I.M.Young's understanding of community. According to her, "the desire for community relies on the same desire for social wholesomeness and identification that underlies racism and ethnic chauvinism on the one hand and political sectarianism on the other'; it 'denies difference between subjects' as it presumes 'subjects that understand one another as they understand themselves."[67] As a response to such thinking, Haber offers the notion of 'subjects-in-community' (meaning that there are no autonomous, non-plural subjects).[68] Plural subjects do not preclude, or do not mean that there cannot be, a formation of identity and continuity and, vice-versa. As Haber says, "there is no reason to believe that community understanding or the recognition of similarity does fore-close on the recognition of genuine difference."[69]

A politics of difference should not be taken as ignoring that 'all unities necessarily have a remainder. It is in fact this remainder that

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[66] Ibid.
[67] Iris Maorion Young, "The Ideal of Community and the Politics of Difference" *Social Theory and Practice*, 12 (Spring, 1986), p.1. Also cited in Haber. Op.cit. p.126.
[68] Haber, Op.cit. p.114.
[69] Ibid., pp.126-27.

encourages the hope that the future can always be different from, and perhaps better than, the past'.[70] What is so valuable, and thus attractive, about the politics of difference is that "it forces politics to give up its exclusivity; it must construct itself with the voices of "otherness". This means that those whose concerns have traditionally been silenced or devalued can begin to assert their voices."[71] This may be said to be at the heart of nationalist assertions. They are aimed against a form of closure which has the effect of never giving the other 'a chance to form itself as a political voice'.

The 'nation' is a community, and it claims to rights. Given this fact, nationalist movements' claims to rights for 'their nation' is grounded in what has come to be known as communitarianism,[72] which arose as a critique of liberalism. The main complaint being that

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[70] Ibid., p.129.

[71] Ibid.

[72] Writings on Communitarianism include Alasdair MacIntyre, *After Virtue: a Study in Moral Philosophy* (Notre Dame, Univ. of Notre Dame Press, 1981); Michael Sandel, *Liberalism and the Limits of Justice* (Cambridge, CUP, 1992); Charles Taylor, 'Atomism' in *Philosophical Papers: Vol.II* (Cambridge, CUP, 1985), Michael Walzer: *Spheres of Justice: a Defence of Pluralism and Equality* (Oxford, Blackwell, 1983), Daniel Bell, *Communitarianism and its Critics* (Oxford, Clarendon Press, 1993). The present work does not go into the debate between liberals and communitarians. It presents in brief the communitarian thought. A possible criticism would be that it proceeds on to argue other positions by drawing from communitarianism, without examining the debate properly. It's been assumed here that both the camps agree on the importance of cultural identity and communal belongings at a basic level. Simon Caney (cited below) argues that liberalism in fact accepts and recognises many of the (if not all) communitarian principles. For liberals sympathetic to culture, identity and community, see Y.Tamir, *Liberal Nationalism*, (Princeton: Princeton Univ. Press, 1993), Will Kymlicka, *Multicultural Citizenship: a Liberal Theory of Minority Rights*, (Oxford, OUP, 1995) The debate seems to be inconclusive on (other aspects like) which enjoys priority – rights or goods. That is irrelevant for this work the aim of which is to argue that something should be done to solve the problems of nationalist movements and that federalism provides a viable solution. Communitarianism is nevertheless presented as it clearly (and firstly) pointed out the importance of communities.

liberalism does not sufficiently take into account the importance of community for personal identity, moral and political thinking. Liberalism's overly individualistic conception of the self has ignored the role played by community in the pursuit of common goods. Despite many strands in this thought, the above is what unites them. According to Daniel Bell, "the whole point of communitarian politics is to structure society in accordance with people'' deepest shared understandings."[73] Two aspects of the communitarian argument are:[74]
(1) Ontological – it is about the nature of the self and its relations with social reality. Communitarians argue that the self cannot be conceived of independently of society or the community: the self is situated or embodied. Social processes and institutions shape the person into a social being, whose desires and whose understandings and attitudes towards the world are thus products of the community.

(2) Evaluative: Communitarians emphasise the importance if communal or public collective goods. A view of humans as primarily social beings requires an emphasis on values which support mutuality. This means promoting cultural practices and institutions which strengthen norms of reciprocity, solidarity, and fraternity. Thus, it prescribes that the focus of politics be common good and well being of the political community.

Simon Caney says that communitarians make three different

[73] Daniel Bell, *Communitarianism and its critics*, Op.cit. p.141.
[74] Chandran Kukathas, art.cit. p.90.

types of claims, which are:[75]

1. Descriptive: The first claims is the embeddedness thesis – as Sandel writes – people are "defined to some extent by the community of which they are part"[76] or in MacIntyre's words – "We all approach our own circumstances as bearers of a particular social identity....I belong to this class, that tribe, this nation."[77] The second is a social thesis, which in Taylor's words means that people 'only develop their characteristically human capacities in society. The claim is that living in society is a necessary condition of the development of rationality...or of becoming a moral agent in the full sense of the term or of becoming fully responsible, autonomous being."[78] This draws attention to the "cultural preconditions of autonomy'. The third is the cultural options thesis which "states that the exercise of autonomy is facilitated by a pluralistic culture".[79]

2. Normative: There are again three claims here (a) civic virtue is an important ideal and liberalism, by ignoring it, engenders egoism. (b) "constitutive community is valuable, where this exists, when people identify themselves as members of a community" (c) participation in the public sphere is valuable.

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[75] Simon Caney, "Liberalism and Communitarianism: A Misconceived Debate". *Political Studies*, XL, 273-89. The presentation here is heavily drawn from Caney. Also see S.Mulhall and A.Swift, 'Liberalisms and Communitarianisms: Whose Misconception? A Reply to S.Caney' in *Political Studies* (1993) XLI, 650-56 and Caney's rejoinder in the same issue, pp.657-60.
[76] M.Sandel, op.cit, p.150.
[77] A.MacIntyre, op.cit, p.220.
[78] C.Taylor, "Atomism". op.cit, p.190-91.
[79] S.Caney, art.cit.

3. A Metaethical Claim: It states that correct moral principles mirror the shared understanding of communities. Walzer writes, "there is no other starting point for most speculation. We have to start from where we are. Where we are, however, is always some place of value, else we would never have settled there."[80]

Apart from critiques of communitarianism, there are writers who think that liberalism can, and indeed does, recognise the communitarian claims. To be able to defend nationalism, Yael Tamir starts by asking – what is the idea of the person? She links it up to the question of identity, culture, and community. "Underlying nationalism", she says, "is a range of perceptive understandings of the human situation, of what makes human life meaningful and creative, as well as a set of praiseworthy values."[81] Precisely because of that, the liberal tendency of dismissing nationalism as irrational and 'morally incomprehensive' should be abandoned. The idea of the person has always been a matter of intense debate between two extremes – one believing that individuals are the inevitable product of their culture and the other asserting that individuals are 'authors' of their lives i.e. between embeddedness and autonomy.

As a meeting ground of the two, Tamir offers the concept of the "contextual individual" that "combines individuality and sociability as two equally genuine and important features"; this concept "embodies

[80] Cited in S.Caney, art.cit.
[81] Y.Tamir, op.cit.p.5.

both the liberal virtue of self-authorship and the national virtue of embeddedness. It portrays an autonomous person who can reflect on, evaluate, and choose his concept of the good, his ends and his cultural and national affiliations but is capable of such choices because he is situated in a particular social and cultural environment that offer him evaluative criteria."[82] Tamir's formulation underlines the fact that cultural contextualization and personal freedom need not stand at opposite poles. A defence of nationalism and cultural identity should not be construed as, and is not, an endorsement of the view that individuals in a nation do not possess autonomy.

The nationalist perspective does not dispute the fact that individuals are entitled to a broad category of human rights. However, a guarantee of individual rights alone has been found to be insufficient to deal with genuine problems and grievances of communities; it cannot meet the requirements of cultural differences since the level shifts from individuals over to communities. Thus, Taylor says, a liberalism of rights with a commitment to deal fairly and equally with each other, regardless of how we conceive our ends ('procedural') is "inhospitable to difference"[83] and 'guilty' of ignoring what constitutes a good life and what the ends of life are.

Membership in a 'pervasive culture' is, as Margalit and Raj observe, of "great importance to individual well-being, for it greatly

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[82] Ibid.
[83] Charles Taylor, "The Politics of Recognition" art.cit., p.94.

affects one's opportunities, one's ability to engage in the relationships and pursuits marked by the culture."[84] Individual well-being is a value and for that reason cultural identities should be recognised because "well-being depends on the successful pursuit of worthwhile goals and relationships. Goals and relationships are culturally determined."[85]

Acknowledging national identity also means acknowledging special obligations to fellow members of the nation. It is hence not bereft of ethical issues. The nation is an ethical community as well. Two approaches to ethics are at contest here – 'ethical particularism' and 'ethical universalism'. "Ethical universalism gives a certain picture of what ethics is about, the elements of which are individuals with their generic human capacities, considered for these purposes as standing apart from and prior to their relationships to other individuals."[86] Relational facts (facts about some relationship) do not count in determining duty towards others in this model. On the other hand, ethical particularism "holds that relations between persons are part of the subject matter of ethics, so that fundamental principles may be attached directly to these relations."[87] In this ethical universe, persons are encumbered and committed, which is the starting point of ethical reasoning. According to Miller ethical particularism provides the basis necessary for a defence of national identity and indeed stands

[84] Avishai Margalit and Joseph Raj, "National Self-Determination", In Will Kymlicka (ed.), *The Rights of Minorities Cultures*, Oxford: OUP, 1995. P.87.
[85] Ibid.
[86] David Miller, Op.cit. p.50.
[87] Ibid.

superior to ethical universalism because "(t)he consistent universalist should regard nationality not as a justifiable source of ethical identity but as a limitation to be overcome."[88] While, by contrast, the ethical particularist is free to introduce universalist notions when it suits him – nothing in particularism prevents one from doing so. The ethics of nationality can be defended on two grounds: First, a nation has a 'public culture' which is a "set of ideas about the character of the community which also helps to fix responsibilities."[89] It is a product of political debates in the past. Obligations themselves stem from a public culture and therefore, are not a 'sanctification of merely traditional ethical relations'. They are informed by the reasons offered in the course of the debates. Secondly, what would be the form of a political arrangements from which the bond of nationality is absent? As Miller says, the paradigm of rights and citizenship, in this case, would lead to the insistence by citizens on 'strict reciprocity', 'taking as a baseline the hypothetical state of affairs and it would be 'difficult to explain why states should provide opportunities and, resources to people with permanent handicaps."[90] This is a strong ethical reason for making the bounds of nationality and the bounds of state coincide." Where this obtains, obligations of nationality are strengthened by being given expression in a scheme of political co-operation."[91]

Two main charges against ethical particularism are that it suffers

[88] Ibid., p.64.
[89] Ibid., p.68.
[90] Ibid., p.72.
[91] Ibid., p.73.

from ethical partiality and it amounts to 'capitulation of reason before sentiment, prejudice, convention – it is considered as 'moral conservatism'. Both these criticisms cannot stand if we know that impartiality derives its meaning from a particular context. "Partiality", as Miller says, "(in the morally relevant sense) means treating someone (possibly yourself) favourably in defiance of ethically sanctioned rules and procedures, so we don't know what it consists in until we know what those rules and procedures are in a given case."[92] The second charge is already answered by the public-culture thesis. Hence, the defence of nation as a community sharing a cultural identity, and its ethical grounds stand unaffectedly strong. The fact is that any political arrangements for purposes of governance cannot function only on the basis of rights and citizenship. The voluntary commitment of members is crucial to it. A prior obligation to nationality enables these commitments.

What has been attempted in this section is a normative defence of nations and nationalism (by extension, the normative base in sub-nationalist movements). Nations are cultural communities and there is an ethical basis for that, too. It started by exploring the concept of identity and its political implications. The main current found all throughout the above discussion is that the nationalist assertions are based on a politics of differences – for recognition. Non-recognition could lead to exclusion, which is precisely the main target of these

[92] Ibid., p.54.

movements. The above is meant to be a normative defence of nations and nationalist movements understood as cultural communities with all the implications for politics. The conclusion is that in this case both a cultural community and its politics (can) possess a normativity – which is too paramount to be dismissed. By way of conclusion, a few words may be added as regards the myth and invention or construction of nation. A 'myth' has a delegitimising effect. However, even if there are national myths, they are neither 'myths proper' nor 'complete falsities'. They rather "bear a complex relation to the truth. They may contain some truth, and give rise to true beliefs".[93] On the other hand, a construction or invention means at one level that it has not been there as natural – it is recent. Again, it does not deligitimise cultural communities or nations since, while it robs away 'timelessness', it only begs the question of how far back in time we have to go in order to satisfy criteria of 'genuineness'.[94] That does not break the normativity.

Conclusion:

The international system we live in is based on nation-states. Diaspora formation and secessionist drives characterise these nation-states today. On the other hand, there are appeals to our universal moral natures so that we may relate to each other as human beings ignoring

[93] David Archard, "Myths, Lies and Historical Truth: A Defence of Nationalism", *Political Studies* (1995), Vol.XLIII, pp.472-81.
[94] Edwin N.Wilmsen, "Premises of Power in Ethnic Politics". art.cit.p.3.

our attachments to particular cultures, communities or nations. The aim of the chapter has been not one of tracing the origin of nationalism but to understand what it is and find a normative defence for the same. What has been argued is that nations are cultural communities and by extension of logic, nationalist movements, based on cultural identities enjoy the same normative base as do nations. What underlies these movements is the acceptance of the principle that nations as cultural communities are entitled to political self-determination. It should not be taken to mean that 'ideo-focal' nations (a community formed by the exercise of the subjective will of its individual members to be a nation) cannot exist. The concern is with 'ethno-focal' types as nationalist movements are based on a cultural identity: they are not regionalism. That does not again mean that these are ethnic movements to be dismissed. Nationalist aspirations are not limitations to be overcome.

The value of identity and its significance in providing a legitimacy to nation-states may be grasped from the fact that once a nation state was created "whether out of one nation or as a multinational or imperial entity, it actively promoted cultural homogenisation of its members and even appealed to a new common ethnicity which had to be constructed in a systematic manner."[95] Nation-states invent their own ethnicity. While the first part of the chapter aims at showing that nations are cultural communities, the second addresses the question of whether identity-based communities

[95] M.Guibernau & John Rex, "Introduction" art.cit. p.5.

should enjoy political rights or not. Identity being a political question as well, the normative defence has been linked up to issues of equality and justice.

While the work is not a critique of modernity, it has to be accepted that modernity based on the main currents of the Enlightenment were to establish a sharp frontier between a past, and a rational future, which had to be the result of an act of absolute institution. What has been argued so far is inclined to the thinking that our 'rational future' consists also of appreciating the past, of recognising particulars, of reflecting on present conditions with resources from the past.

Doubts may be raised regarding the multiple approaches that are followed and the apparent emphasis on communitarian thinking. It is maintained that in understanding nationalism as a cultural phenomenon, no single approach alone can offer us a complete understanding. If the work were to be brought into a single approach, it is in seeing nationalism as a cultural phenomenon, but the importance of cultural identity cannot be approached from one single viewpoint. The apparent emphasis on communitarian line of thinking is due to the fact that it clearly pointed out the value of cultural membership. It is not to be taken as an endorsement of the view that humans are completely embedded in a culture or a community. Partial embeddedness, however, does not lessen the value of cultural identity. The point in arguing for cultural identity is not a demand to live the

lifestyles that our ancestors lived centuries ago. It is not to be seen as closing a group to others and to itself. That means 'self-apartheid'. It means recognising cultural identity – valuable for all. It has to do with "coming to terms with one's routes", rather than return to roots. (S.Hall cited above).

There is a seeming contradiction between particulars and universals. The two need not be seen as completely opposed – a case of either –or. One need not up-root the other. In Ernesto Laclau's words – "The universal is incommensurate with the particular but cannot exist without it. How is this relation possible? My answer is that this paradox cannot be solved, but its non-solution is the very condition of democracy ... If democracy is possible it is because the universal has no necessary body and no necessary content; different groups, instead, compete among themselves to temporarily give their particulars a function of universal representation".[96]

[96] Ernesto Laclau, "Universalism, Particularism, and the Question of Identity" in Edwin N.Wilmsen and P.Mc Allister (eds.), *The Politics of Difference*. Op.cit, p.57.

CHAPTER III

THE POLITICAL SOCIOLOGY OF FEDERALISM

Introduction:

Federalism, as an ideology and a principle, is a rich concept. It not only possesses an imaginative access to high ideals of political theory but also enjoys a unique capability of getting translated into political practice. However, the ideas and theories that inform federalism have received little treatment. One such prominent problem is that of cultural identities and its attendant problems, which characterize today's world most visibly in the form of rising tides of (sub-) nationalism and ethnic violence leading to a near anarchic situation. "What is indicted as anarchy, however, is the result of claims to sovereign identity, mastery and transparency that have always vied to provide the guarantees and guiding ideals of modern life."[1]

The violence that is usually associated with sub-nationalist assertions is not to be interpreted as constitutive of a particular identity, which is of little help in an endeavour to understand the complex web of relationship between the cultural and the political. David Campbell and Michael Dillon rightly say, "the orthodox rendering of such violence as premodern abdicates its responsibility to a predetermined historical fatalism. For if these ethnic and nationalist

[1] David Campbell and Michael Dillon, "Postface: The Political and the Ethical" in D. Campbell & M.Dillon (eds.), *The Political Subject of Violence*, Manchester University Press, 1993, p.161.

conflicts are understood as no more than settled history rearing its ugly head, then there is nothing that can be done in the present to resolve the tension except to repress them again."[2] It is one of those areas where federalism offers itself as a viable solution to the 'political conflicts of cultural communities.' Federalism does not believe in repression but rather in deliberation, for which it offers the space. It encourages consent and consensus while recognizing the potential of conflicts in a democracy. One way of doing that, it will be argued in this chapter, is to 'split the atom of sovereignty.' The claims and assertions of cultural communities, whether they be violent or non-violent are posed most urgently as problems for policy - as demands that something be done by established authorities. An awareness of the growing complexity of governance in the current social, economic and political circumstances have only given an added force to the qualitative preference of the 'federal virtues' over any other form of government. In this context, it will be argued that Daniel Elazar's phrase – "thinking federal" should be a valued element in the political culture of any multi-cultural society.

The main aim, however, of the chapter will be to argue that federalism can be used as a means of reconciling the demands of particularistic ethnic/sub-nationalism while maintaining the wider unity of the state. Here, federalism will be regarded as a means of securing minority rights and to that extent as an anti-dote to

[2] ibid., p.163.

ethnic/sub-nationalism. Along with it will be explored federalism as non-majoritarian rule and thereby providing social justice and enhancing liberty.

The arguments in this chapter however proceed on what have been argued in the previous one, which are: i) sub-nationalist assertions today are based on a cultural identity or a cultural community, ii) culture forms an essential element in the process of identity-formation of an individual, and iii) individuals and peoples have a right to a culture, or a cultural community is entitled to some rights like preservation and promotion of its culture, some amount of autonomy and/or self-rule. This clarification is necessary to respond to the criticism that federalism will involve institutionalizing 'ethnicity' (with all the negative meanings attributed to it).

What is Federalism?

Federalism has been used in very loose ways in political discussions without clear and distinct meanings. What the term immediately brings to mind is the existence of two or more levels of government and distribution of power between the two, or in K.C. Wheare's words, "an association of states, which has been formed for certain common purposes, but in which the member states retain a large measure of their original independence.'[3] While there is a general

[3] K.C.Wheare, *Federal Government*, London: OUP, 1946, (2nd Edition, 1951), p.1.

agreement on this, there are differences as to what type of associations of governments deserve to be properly described as federal. The problem, however, is not on the disagreements per se; it lies elsewhere in that such an understanding limits the concept of federalism to a structural and organizational framework only, thereby ignoring various important ideas and theories that inform it.

Ambiguity surrounds the use of the term. This, however, is not to be seen as in any way undermining the richness of the concept. There are several varieties of political arrangements to which the term 'federal' has been properly applied – a reason why " the ambiguities testify to the richness of the concept.[4]

Elazar reasons that the ambiguous aspect of the term arises mainly because ' the terminology of federalism, like all other classic terminologies, has changed and evolved through history, evoked many nuances and thereby weakening a clear-cut definition.'[5] He equates it with what Max Kudshin has termed a 'value-concept' – 'a term that caries with it an essence, which is interpreted in a variety of ways under different circumstances as long as they adhere to the essentials of the concept.'[6]

Federalism and its ideas are traced to the Israelite tribal federation described in the Bible. Elazar says, 'the first usage of the term was for theological purposes, to define the partnership between

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[4] Daniel J. Elazar, "Federalism and Consociational Regime". *Publius*, Vol. 15, No.2, 1985, pp.17-34.
[5] Daniel J. Elazar., *Exploring Federalism*, Tuscaloosa: Univ. of Alabama Press, 1987, p.15.
[6] ibid.

men and God.'[7] This gave rise to federal relationships between individuals and families and hence, to a 'body politic' and 'bodies politic'. The structural definition of federalism, however, can be traced to the general tendency amongst writers to readily identify federalism with the American federation, one that has been considered the most successful. The American federation has all the structural characteristics of federalism, e.g., an association of states with a division of power between a general government and the associated states, a written and rigid constitution, a judiciary as the guardian of the constitution, a bicameral legislature, etc. The division of power is such that the general authority and the regional authorities are not subordinate to one another, but co-ordinate with each other. It is to this that more emphasis should be paid. Federalism, of course, envisages a structure but the structure is effected, for social and political ends, in a way that the centre and its parts are independent in their own spheres, and co-ordinate. They are, in other words, co-equal. K.C.Wheare[8] refutes some definitions of federalism, the first being that "the federal principle consists in the division of power in such a way that the powers to be exercised by the general government are specified and the residue is left to the regional governments.' This view does not recognize as federal those governments which have the residue in

[7] ibid., p.1.
[8] K.C. Wheare, op.cit., pp.13-14.

the general government. While the question of where the residue of power should rest may affect the whole balance of power, more important is the way the division of power is made so that neither the general nor the regional government is subordinate to each other. The other definition is that 'in a federal government both general and regional governments operate directly upon the people.' This definition, according to Wheare, distinguishes a federation from a league or confederation, going by the evolution of federalism in the U.S.A., which had a confederation first, of which Hamilton wrote – "(t)he great and radical vice in the construction of the existing confederation is in the principle of *Legislation* for *States or Governments*, in their corporate or collective capacities and as contradistinguished from the *Individuals* of which they exist"[9]; but it does not distinguish a federation from other forms of associations. Against these definitions, Wheare gives his own definition of what the 'federal principle' should mean: 'the method of dividing powers so that the general and regional governments are each, within a sphere, co-ordinate and independent."[10] Wheare's definition presents an improvement over the others; it is still confined within the bounds of a structural definition, while the ends that such an arrangement or principle aim at are ignored. Arend Lijphart's characterization of federalism, in his attempt to distinguish consociationalism from it may

[9] Quoted by Wheare, op.cit. p.14.
[10] Wheare, op.cit., p.11.

be put in this tradition. He defines federalism in terms of primary and secondary principles, the primary federal characteristic being a guaranteed division of power between central and regional governments. Five secondary attributes are identified.[11]

i) A written constitution which specifies the division of power and guarantees to both central and regional governments that their allotted powers cannot be taken away;

ii) A bicameral legislature in which one chamber represents the people at large and the other, the component units of the federation;

iii) Over-representation of the smaller component units in the federal chamber of the bicameral legislature;

iv) The right of the component units to be involved in the process of amending the federal constitution and to change their own constitutions unilaterally; and

v) Decentralized government, that is, the regional governments' share of power in a federation is relatively large compared with that of regional governments in unitary states.

There is, of course, a broad measure of agreement that a federation is a specific organizational form, which includes structures, institutions and techniques. It is, in the words of Michael Burgess,[12] "a tangible institutional reality." He finds it perfectly acceptable when

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[11]Arend Lijphart, "Non-Majoritarian Democracy: A Comparison of Federal and Consociational Theories", *Publius; The Journal of Federalism*. Vol. 15, No.2, 1985. p.3-15.

[12] Michael Burgess. "Federalism and Federation: A Reappraisal". in Michael Burgess & Alain G. Gagnon (eds.), *Comparative Federalism & Federation: Competing Traditions and Future Directions*, Hertfordshire, Hervester Wheatsheaf, 1993, p.3.

Preston King[13] defines a federation as 'an institutional arrangement, taking the form of a sovereign state, and distinguished from other such states solely by the fact that its central government incorporates regional units in its decision making procedure on some constitutionally entrenched basis.' Burgess sees federalism as recognizing 'the institutionalization of these relationships in a state, relationships which have political salience. In which case, a federation is the institutional or structural form or polity having the institutions and structures of federalism, i.e.; federalism is an ideology recommending the federal principle. It is both a philosophical position and a prescription. It is important to note that in a federation the institutionalization is constitutionally recognized. King also agrees that the distinguishing hallmark of the Union in the decision making procedure of the central government 'on some constitutionally entrenched basis.'

A more plausible definition of federalism, for the purposes particularly of using it as a 'multicultural strategy' is to define it in terms of 'self-rule' and 'shared-rule.' 'Federal principles are,' according to Elazar, 'concerned with the combination of self-rule and shared-rule.'[14] Underlying such an understanding of federalism is the desire of people and communities or politics to have a political unity to the extent warranted by common interests, aims, goals while retaining

[13] Preston King, *Federalism and Federation*, London: Croom Helm, 1982, p.91.
[14] Elazar, *Exploring Federalism*, op.cit. p.5.

their own identities and integrities. This definition does not give shape to a particular form or structure, the possession of which will lead to a polity being called a federation. In this regard, it is necessary to reiterate that federalism as a theoretical and operational concept is surrounded by ambiguities. Elazar says:

1. There are several varieties of political arrangements to which the term federal has properly been applied;
2. Federalism is directed to the achievement and maintenance of both unity and diversity.
3. Federalism involves both the structure and processes of government.
4. Federalism is both a political and a social-cultural phenomenon.
5. Federalism concerns both mean and ends.
6. Federalism is pursued for both limited and comprehensive purposes.[15]

Understood in this sense, federalism becomes flexible in nature, which can vary, in different politics as the different social, economic and political settings may demand. The argument that federalism institutionalizes 'undesirable' phenomena e.g., ethnicity arises partly due to a structural definition of federalism. Federalism may, then, be understood as a value-concept, a philosophical and ideological position, that has evolved and changed according to time and circumstances in different epochs, the essence of which is understood in achieving simultaneously 'self-rule' and 'shared-rule.' The ends

[15] ibid.p.38.

and goals come first and the organizational and structural arrangements later in that it is the ends that give shape to the structure and not vice-versa. If the reverse is true, then we could be having a lot of 'federations without federalism.'

Federalism and (sub-) nationalism:

Federalism is propounded as an ideology of shared-rule and self-rule in multicultural (multinational and/or polyethnic) states where the political ambitions of self-rule are strongly articulated by various cultural communities that exist in it. Herein obtains a complex of group-identity politics to which the response of traditional state institutions is generally regarded inadequate. The federal proponent, however, works on an assumption that the parties involved have a desire for both unity and diversity. Federalism does not offer itself as a way of bringing or holding together communities or nations that do not possess any common desire whatsoever of unity or union. At the some time, a proposition that the federal principle can be put to use to serve as an antidote to (sub-) nationalist assertions, it has been argued, arise as a way of registering protest against real moves or perceived threats of homogenization, and also as a movement caused by the anxious desire to preserve a separate identity for a particular community. Such movements, as has been argued in the previous chapter, proceed with a belief, which is not misplaced, that a community is best governed by itself according to the interests of its own. How federalism helps in such situations is explored below.

One way in which federalism helps in the achievement of this goal is by ensuring that both unity and diversity are maintained. That federalism involves balancing techniques between centripetal and centrifugal forces is the focal point for a solution to the problems of governing a multicultural state with deep societal cleavages. In this regard, federalism is understood as 'both the process of political unification and the maintenance of the diffusion of power'[16] where diversity is to be maintained the federal formula consists in the 'federalizing process' whereby power is diffused. However, the diffusion of power is not to be undertaken for every possible social formation or groups that are available in a society. Rather, it is with an aim to reflect 'politically meaningful diversity.' For example, a community is to be such that it needs to self-govern itself. For reasons of approximating social justice to a case of political exclusion, etc. In this case, the community is empowered with 'substantial' autonomy to enable a self-rule. And the extent of the 'substantial' is decided keeping in view a necessary existence of unity between various units of the federation. The federal principle in this way ensures that a cultural community gets politically represented. It also thereby carves out a space for a politics of presence which has become all the more necessary in multicultural settings where the acuity of the need to articulate differences is sharper than elsewhere. In a federation, the constituent units have 'state rights' with legislative and administrative autonomy as different from the local authorities in a unitary state

[16] ibid., p.64.

which are subordinate to an overarching central authority. The central authority in a unitary state displays supreme, indivisible sovereignty whereas in a federation, it is split and shared. It is because of this that a federation possesses an 'infinite capacity to accommodate and reconcile the competing and sometimes conflicting array of diversities having political salience in a state.'[17]

A federal empowerment in the form of autonomy also sees to it that minorities find it possible to preserve themselves. Federalism is in this sense a way for securing minority rights. The federal principle 'serves well the principle that there are no simple majorities or minorities but that all majorities are compounded congeries of groups, and the corollary principle of minority rights.[18]' It thereby enhances the democratic element in a polity by ensuring the participation of those, which would be peripheral minorities with no say. Arend Lijphart[19] has referred to federalism as a kind of non-majoritarian democracy.

He enumerates eight elements of a non-majoritarian democracy:

1. Executive power sharing – reflects the need for coalition government of two or more parties that allows for a broader majority than in one party, majority cabinets. A grand coalition of all-important parties is even better.
2. Balanced executive – legislative relations – underlines the need for a balance of power between the executive and the legislature reinforced

[17] Michael Burgess, art.cit., p.7.
[18] Elazar, *Exploring Federalism*, op.cit.
[19] Lijphart. "Non-Majoritarian Democracy", art.cit.

by formal constitutional separation of powers.

3. Strong bicameralism – ensures that no concentration of power takes place in a unicameral legislature and that minorities enjoy special representation in the second chamber. The ideal condition would be when each chamber has almost equal powers and follows different ways of election.
4. Multi-party system – to ensure that a majority party does not neglect a vast minority.
5. Multi-dimensional party system – in which parties differ form one another in dimensions such as religion, language and ethnicity. It will reflect diverse opinions and provide wider choices.
6. Proportional Representation – to do away with the ills of plurality method of election which tends to overrepresent large parties and to underrepresent smaller ones.
7. Federalism and decentralization.
8. Written constitution and minority veto.

All the elements of a non-majoritarian democracy may not be found in a federation and federalism does not require that all the above characteristics be constitutionally recognized. The possession of these characteristics also differs in different federations. What is important is that the philosophy underlying federalism has no disagreements with these characteristics. The logical institutional or structural arrangements that follow the recognition of the philosophy allow and even encourage the adoption of these principles. Lijphart has in mind his theory of consociationalism while characterising non-

majoritarianism. However, as Elazar says, 'federal system are dependent upon dispersed majorities generally territorial based, whereas consociational systems are dependent upon concurrent majorities generally a –territorial in character'[20] the only difference being territoriality, federalism may well be described as a form of majoritarian democracy. If sub-nationalism and minority cultural communities have majoritarianism as a point of protest, federalism shares a positive concern for that.

Besides the non-majoritarian essence of federalism, a few other characteristics are pointed out to argue that federalism enhances democracy. Preston King, however, disagrees. According to him, 'federations are to be understood as democracy only in the sense that they involve some form of corporate self-rule, of a kind where it is constituent territorial units which comprise (at least some of) the agents involved in the process of rule'.[21] Pointing out the 'undemocratic' elements, he says, 'the voting population of the different territorial units are always of unequal size' and 'all that is guaranteed in all federations is the *entrenched position of constitutive territorial units, not rights of individual citizens*'.[22] A principle like the equality of representation (of the unequal units) is necessarily undemocratic. He cites the case of Rhode Island in the USA which is

[20] Elazar, "Federalism & Consociational Regimes", art.cit.
[21] *Federalism and Federation*, op.cit., p.88.
[22] ibid., p.9.

represented equally in the Senate with California whose population is twenty times larger than that of Rhode Island, the consequences of which is that the proportionate power of a citizen of Rhode Island exceeds that of a citizen of California by 20:1. He is also of the opinion that principles like separation of powers and bicameralism need not belong only to federations and it would be possible to achieve entrenched representation of member states without these principles.[23] King is right in that every federation is not a democracy. It is, however, not helpful to compare these two concepts on the basis of an either-or, for they stand on two different arenas with different subject matters. Democracy is a form of government, generally accepted as the best and federalism is an ideology, which also seeks to enhance democracy as one among many goals. Federalism reminds us that democracy is not only about rights of individuals but also of communities, peoples etc. in the form of 'states' rights'. Federalism addresses an issue like – how best to make democracy work in a multicultural state where a structural political exclusion may jeopardise the interests and rights of smaller, minority communities or members states. In that case, it will not be wrong to have a principle of equality of representation and for the purpose, a bicameral legislature. Federalism, thus, allows the traditional concept of representation, i.e., one person, one vote (which has not proved useful in dealing with majoritarian dominance, political exclusion, etc.) to be weighed against other considerations. Hence, federalism may be

[23] ibid., pp.91-95.

regarded as enhancing democracy.

The most important advantage or virtue of federalism may be said to lie in what it envisages as multi-level governments. It is particularly relevant for a multicultural state, for it aims at the inclusion and participation of peoples that would become marginalised or excluded in other forms of polity. Nirmal Mukarji and Balveer Arora[24] point out the need for a 'federation within a federation.' The aim is at enhancing participation both at the governmental level of decision-making and in various democratic processes. Such an arrangement multiplies the access points of political participation and deepens representation. It might create ways of representing even those which are not most obviously marginalised or excluded. The urgency for translating such a concept assumes significance in an era when demands for political presence are becoming paramount.

With the value of presence in politics getting recognized, federalism deserves ever more attention because of its capacity to maximize multiple-platforms of governance. In this regard, Ursula Hicks' contention that 'federalism is the necessary consequence of democracy'[25] holds validity.

Because "(d)emocracy is not paternalism: it is not only government 'for the people' but government 'by the people' as well."[26]

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[24] Nirmal Mukarji & Balveer Arora, "Conclusion: Restructuring Federal Democracy" in Nirmal Mukarji & Balveer Arora (eds.), *Federalism in India: Origis and Development*, New Delhi: Vikas, 1992, p.270.

[25] Ursula Hicks, *Federalism: Failure and Success: A Comparative Study*. London, MacMillan, 1987, p.4.

[26] Anne Phillips, *The Politics of Presence*, Oxford, Clarendon, 1995, p.28.

What underlies the politics of presence is a challenge to the politics of ideas which conceives of difference in terms only of ideas and whereby difference is thought to be best sorted out by a system of representation that revolves around ideas and opinions: one in which 'who' the representatives are not of as much importance as 'what' are represented. Against this kind of politics, Phillips gives a number of normative arguments.[27] The first relates to the importance of symbolic representation. A system, in which political decisions are made by a group of 'know-best' representatives drawn from predominant groups or communities, means treating others as 'political minors', which is against democratic norms. It becomes imperative to include the excluded 'to reverse previous histories of exclusion', which matters 'even if it proves to have no discernible consequences for the policies to be adopted.' Secondly, Phillips says that going by a strict definition, in the traditional system of representation, representatives represent only the 'issues that were explicitly debated in the course of election campaign.' For other issues which might arise, the citizens 'have to turn to other aspects of the candidates,' whereby it assumes significance who the representatives are. The third emphasises the need of the disadvantaged groups for 'more aggressive advocates on public stage'. Here, she draws attention to the fact that a party's commitment to policies and programmes for any group or community may not be enough in politics because 'representatives do have considerable autonomy which is part of why it matters who these

[27] ibid., pp.38-45.

representatives are. Finally, there is the problem of 'ideas or concerns that have not reached the political agenda ... of the preferences not legitimated, the views not even formulated, much less expressed.' In such a situation, the choice available to citizens between 'packages of ideas' becomes limited: a reason why people affected need to be present for working out alternatives. If these arguments underscore the need for a politics of presence, federalism may be said to be in tune with it. The idea of self-rule which federalism seeks to implement is in consonance with the proposition that we need to move beyond a politics of ideas to that of presence. Federalism recognizes self-rule because the value of presence – of who rules (or represents) is recognized. It is this recognition which federalism institutionalizes. Here, it needs to be mentioned that if political exclusion (of cultural communities) of one of the whys of ethno-/sub-nationalist movements, federalism does much to create the space for inclusion and presence.

Another reason why federalism has come to occupy a central place in nation-building processes today is to be found in its ability to re-negotiate the political boundaries of sovereignty and citizenship. This ability lends itself as one way towards a solution to various sub-nationalisms in that it points to the possibility of 'less nation-state bound communities' existing together. The challenge of 'sub-state' or 'locally-based nationalisms' is a test for federalism. Smith says. "Nationalism in effect tests the proposition that a federation can actually fashion a sense of identity in which sub-state national identities are not, to use Anderson's (1990) phrase 'imagined as

ultimately sovereign' but rather as possessing multiple and overlapping communities of imagination."[28]

Federalism in a multicultural setting believes in 'overlapping imagination' and this is achieved by 'transferring a degree of political sovereignty to the different units,' which is referred to as the 'splitting of the atom of sovereignty.' Robert Dahl sees federalism as 'a system in which some matters are exclusively *within* the competence of certain local units ... and are constitutionally *beyond* the scope of the authority of the smaller units.'[29] Stepan says that only a democracy can meet the Dahlian requirements of a federation. There are 'sub-units' whose electorate is drawn exclusively from citizens of the sub-unit and which have areas of legal and policy-making autonomy and sovereignty that is constitutionally guaranteed.'[30] Such a system establishes dual or multiple and complimentary political identities. A federalism of this kind may be compared to Habermas' 'constitutional patriotism' 'that respects all forms of cultural differences and therefore reflects the wishes of all groups, within the civil society – ethnic, religions, linguistic, or gender-based – to live as they wish and to compete politically by soliciting the voluntary choice of individuals.'[31] It creates an atmosphere which helps the citizenry think that within the framework espoused by federalism, their language, culture,

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[28] Graham Smith, "Mapping the Federal Condition: Ideology, Political Practice and Social Justice" in G. Smith. (ed.), *Federalism – The Multi-Ethnic Challenge*. London, Longman, 1995, p.2.

[29] See Alfred Stepan, "Comparative Democratic Federalism", *Seminar*, 459, Nov. 1997, pp.16-26.

[30] ibid.

[31] Smith, art.cit.

institutions, traditions etc. can be preserved from either external forces or internal strifes. This is important because it is when the citizenry do not feel that the centre is the provider of goods or the security of their identity, which they consider valuable, that their loyalty to the centre will be weak, thereby becoming a 'constituency for the politics of alienation.'[32] Federalism addresses this by constitutionally transferring sovereignty, providing autonomy, helping to bring about a politics of presence, whereby 'their own people' are the electorate for the representatives of, and from, their own people. It recognizes the fact that communities have a right to be culturally different through constitutional and other means of public protection. What is emphasized is that, whenever possible, the political boundaries of the federal units should match the boundaries of the cultural communities. Because, 'the politics of nationalism is rarely removed from the arena of federal politics, feeding into a set of grievances which in one form or another have the potential to mobilize individuals behind calls for the territorial redistribution of power, including independence.'[33] A call for complete independence becomes a frequent possibility especially in cases of peoples who base their (sub)nationalist movements on rectificatory justice contending that a region or a community has a right to secede if it was 'unjustly' incorporated into a larger unit from which its members wish to secede – an argument standing on the historical grievances thesis'. Besides, there is the

[32] A. Stepan, art.cit.
[33] Graham Smith, op.cit., p.10.

phenomenon, within which the above also falls, generally referred to as 'nations without status' – 'a human group conscious of forming a community, sharing a common culture, having a clearly demarcated territory, having a common past and a common project for the future and claiming the right to rule itself' – but does not possess the necessary independent political sovereignty.[34]

In such cases, the constituency for alienation and secession becomes the strongest particularly when there are no constitutionally recognized frameworks for securing their own separate identity under conditions of either perceived or real threats of homogenisation. Federalism here strikes a compromise, if existing together or 'union' is also desirable to both parties. After all as Gagnon says, 'the success of federal systems is not to be measured in terms of the elimination of social conflicts but instead in their capacity to regulate and manage such conflicts.'[35] In short, federalism gives different cultural communities an opportunity to participate in policy-making and administration by a 'constitutional enumeration of legislative fields' and by creating multiple tiers of decision-making. "The multiple access points that federalism provides to political elite's constitute many safety valves for expression of dissatisfaction with a view to encouraging the elaboration of proposals and finding solutions to the crises that erupt from time to time in federal soćieties."[36]

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[34] Montserrat, Guibernau, *Nationalisms: The Nation-State and Nationalism in the Twentieth Century*, Cambridge: Polity Press, 1996, p.100.
[35] Alain G.Gagnon, "The Political Uses of Federalism" in Alain Gagnon & Michael Burgess, (eds), op.cit., p.18.
[36] ibid., p.21.

In addition, yet another reason why federalism can be helpful toward a solution or management of political conflicts of cultural communities is that it provides 'liberty' to individuals and peoples. An "Executive Order on Federalism,"[37] 14 May, 1998 by the President of the USA reads – "Federalism reflects the principle that dividing power between the Federal Government and the States serves to protect individual liberty" and adds, "the people of the States are at liberty, subject only to the limitations in the Constitution itself or in Federal Law, to define the moral, political and legal character of their lives." It is a system that 'encourages a healthy diversity in public policies adopted by the people of the several states according to their own condition, need and desires. States and local government are often uniquely situated to discern the sentiments of the people and govern accordingly.' The linkage between federalism and liberty has been controversial in academic circles.

Burgess endorses Riker's view that it is an 'ideological fallacy' to link federalism to guarantees of freedom by saying that federalism is not 'a universalist doctrinal collection of principles and prescription which purport to guarantee freedom, pluralism and democracy in

[37] "United States of America: Executive Order on Federalism, 14 May, 1998", *Federalism Report*, Spring, 1998. This order was later suspended due to "the firestorm of protest from Governors, State legislators, mayors, county executives and other local officials." The order was seen as threatening the federal balance which was set up by the Reagan Order, 12612. In the words of Senator Fred Thompson, "(t)he new Clinton order would create, but not limited to, nine new policy justifications for Federal meddling." See the floor comments by Fred Thompson in *The Federalism Report*, Spring, 1999.

absolute terms'.[38] While it is true that there is no casual linkage between federalism and a conventional definition of liberty (right of the individual to vote, contest elections, freedom of expression, etc), federalism lays out a structure which broadens the horizons of the concept of liberty in that it 'emphasizes the liberty to maintain group identities within a shared polity' and the liberty to build communities each with its own ways of life' and also the 'liberty of the individual to choose his primary as well as secondary associations'. "Federations are communities of both polities and individuals and emphasize the liberties of both."[39] These liberties are the ones that will be necessary for the preservation of diversity and pluralism or multiculturalism, in the first place. The fact that federalism recognises the liberty to maintain distinct identities is considered to be helpful for managing sub-nationalisms.

A reservation is that the federal formula of self-rule and shared rule is suited only for territorially based-group-identity politics, while a cultural community and its members may be spread across over many territories- a situation where it is impossible to have a matching boundary between the political and the cultural. While federalism mainly emphasizes territoriality, it would be wrong to contend that it dues not endorse other forms of arrangements to achieve the goal of federalism. Consociationalism is one such theory, 'a species', according to Elazar, 'of federalism, which is the genus,[40] which emphasizes non-territionality. It means that it is possible to have non-

[38] Michael Burgess, "Federalism as Political Ideology: Interests, Benefits and Beneficiaries of Federalism and Federation", in Gagnon & Burgess (eds.), op.cit., pp.103&109.
[39] Elazar, op.cit., p.92.
[40] ibid.

territional federation. According to Arend Lijphart,[41] consociationalism is characterised by

1. grand coalition governments that include representatives of all major linguistic and religious groups,
2. cultural autonomy for these groups
3. proportionality in political representation and civil service appointments
4. a minority veto with regards to vital minority rights and autonomy.

According to him, 'a consociation is also a federation if segmented autonomy is instituted in a territorial-federal basis. While he lays down specific conditions for a consociation to become a federation, or vice versa, e.g. geographical concentration of segments of the plural society and drawing boundaries accordingly for the first, or democracy, plural society, presence of the basic elements of consociationalism for the second –the difference is not very significant in terms of what each wants to achieve. Constitutional entrenchment is a significant one. Elazar says, 'consociational arrangements usually emerge on a semiformal basis, then become institutionalized, usually through some form of legal and institutional adaption within the polity, thereby becoming constitutionalized. This latter step brings them into the realm of federation'.[42] Hence, it is possible to think of non-territorial federalism for those cultural communities which are spread over many territories. and a cultural federalism, for that reason, is considered a

[41] "Non-Majoritarian Democracy" art.cit, and also "The Puzzle of Indian Democracy: A Consociational Interpretation." *American Political Science Review*. Vol. 90, No. 2, June 1996, pp.258-268.
[42] *Exploring Federalism*, op.cit. p.70.

good strategy with which to attenuate forces of separatism and secession.

While so much has been said about the desirability of a cultural federalism (consociationalism included) and its utility in bringing about a better democracy, with its recognition of the importance attached to political presence and thereby lending an effective hand in managing sub-nationalism, it should not be taken to be an all-problem-solving strategy. As Phillip says referring to consociationalism, 'the emphasis is less on what is necessary, with the imperatives of political order always claming the last word in deciding which form of democracy are most appropriate'.[43] The 'pragmatic considerations of stability' are seen as limiting the 'range of issues' and '(t)his barley touches on more recent formulations of political exclusion, where the groups in question are unlikely to form their own parties and may not yet be organized as significant and powerful blocs'.[44] This is a valid point in regard to federalism. However, federalism does not pretend to solve all problems of political exclusion, for example, it does not offer an answer to the problem of women's representation, nor can it be claimed that federalism possesses all the philosophical virtues which can be translated into practice. Nevertheless, federalism may be considered a provider of a lay-out that would help bring about a politics of presence. The possibility of multiple tiers of government at

[43] Phillip, op.cit., p.4.
[44] ibid., p.15.

regional and cultural community levels in a federal set up recognizes the value of presence. In this sense, federalism addresses the issue at one of its primary levels. Indeed, federalism does not inhibit, but is rather informed by the value of a politics of presence and promotes it.

The main theme/purpose of the chapter has been to argue that the ideas and theories that informed federalism are the ones that help federalism work toward a solution of sub-nationalism, the political conflicts of cultural communities in a multicultural set-up. An argument for a cultural federation works on the differences between cultural communities. Federalism lends recognition to it, because of which many criticism have been put forth. Differences, even cultural identities, can change. "(T)he social and spatial boundaries of ethnic groups can change over time.....Federalism institutionalizes what may be temporary or partial group identities as permanent ones. The territional nature of the federal solution inscribes difference and ensures its reproduction".[45] This can prove to be even more damaging because, 'organizations whatever interests they may represent and whatever socio-economic bases they rest upon, develop a dynamic of their own'.[46] Based on an inertia of its own, the institutions may endure even having outlived their usefulness and obstruct emergent interests.

This criticism should not, however, deter the application of federal principles when called for. Federalism should not be seen as a fixity-forever if once implemented but rather as flexible according to

[45] John Agnew, "Post-Script – Federalism in the Post-Cold War Era." in G.Smith, (ed.), op.cit., p.297.
[46] J.Stevenson, quoted Burgess. op.cit., p.106.

time and circumstances. As B.C.Smith points out-"Federalism involves special techniques for managing a changing equilibrium between the national and regional levels of government...".[47] Trudeau elaborates: "To meet these changes, the terms of the federation pact must be altered, and this is done as smoothly as possible by administrative practice, by judicial decision, and by constitutional amendment, giving a little more regional autonomy here, a bit more centralization there, but at the same time taking care to preserve the delicate balance upon which the national consensus rests".[48]

Conclusion:

The attempt in the chapter has been to explore the ideas and theories that inform federalism and how federalism in turn can be a solution or an anti-dote to sub-nationalist assertions. It has been done in the belief that a fruitful engagement can take place by examining the overlapping as well as opposing grounds in the concepts and theories of nationalism, democracy and federalism, which should not remain 'non-communicating discourses'. Federalism, it has been argued, deepens democracy and offers a viable strategy for maintaining democracy in multicultural settings where nationalist assertions are strongly articulated. Federalism is, however, not to be conceived as a panacea for all political ills ranging from inter-communal conflicts to issues of social justice. It cannot even work out as an imposed solution in a

[47] quoted in Gagnon. op.cit., p.29.
[48] quoted in, ibid.

situation where communities posses no desire whatsoever of living together. The argument, however, that federalism institutionalizes suppression of the voices of smaller groups in a demarcated federal territory is not very sustainable. The endeavor is one of looking for a better organisational format that takes care of both sides of the argument in the form of a federal compromise. One form of exclusion cannot be opted in favour of another. Federalism provides platforms where representation can take place deeper at multiple levels, a possibility of self-rule to those voices structurally suppressed and gives vitality to the concept of equality.

Federalism, hence understood, is a constitutional entrenchment of the values underlying the communitarian philosophy and those attached to a politics of presence. The institutional recognition guarantees a sense of security to cultural communities at both levels – mental and practical. Because the philosophy of federalism does not remain within the confines of abstract philosophy. Federalism, it can be said, 'empiricalizes' much of the 'oughtnesses' of philosophy – of democracy and the approximation of social justice. It creates spaces for political participation, inclusion and presence. This is how federalism may deal with the political assertions and conflicts of cultural communities.

CHAPTER IV

NORMATIVE GOALS AND POLICY IMPLEMENTATION: CANADA AND INDIA.

Introduction: The present work is concerned with (sub-) nationalist movements as the 'political constitutive' of what is primarily 'cultural'. That is to say that nationalist claims are political demands of cultural communities. In the (post-)modern world, where questions of democracy- particularly those of equality and justice, of inclusion and exclusion have become more sensitive than ever before, when political fates of individuals and peoples have come to be intricately linked to the 'presence' of 'their' own people in the political process, the 'political' has striked an inevitable partnership with the 'cultural'. The two seem to have fused into one instead of working as a team. These political-cultural communities read their present conditions and form future visions in relation to other political-cultural communities.

It has been argued in the previous pages that this situation is not be read as an anarchic competition dangerous for the future of mankind but rather as an environment conducive to democracy. A defence of nationalist movements was attempted in the second chapter by examining the values of cultural identity and its intricate relationship with politics. That was preceded by an analysis of the concept of 'nation' as 'a

politically self-aware cultural community'. The next chapter argued that the federalism offers itself as a conciliation between democracy and nationalism, that it enhances democracy by deepening representation, by making possible at a basic institutional level a politics of presence.

If presence is valuable for significant reasons, recognition is a pre-condition to it as non-recognition leads to exclusion. A recognition of this co-relation has led many countries to adopt the federal principle of 'shared-rule' plus 'self-rule' to achieve both the values of unity and diversity. Unity is not homogeneity; nor does inclusion mean assimilation. Federalism has been seen as taking care of these differences.

Despite his opposition to a glorification of federalism, William Riker says, "(o)ne does not decide on the merits of federalism by an examination of federalism in the abstract, but rather on its actual meaning in particular societies."[1] In this chapter, two countries (Canada and India), are taken up for a comparative exploration of how federal strategies have been devised to deal with nationalist assertions and to provide rights to cultural communities. A few words are necessary as to why it will be fruitful to compare the two countries. Balveer Arora and Douglas Verney[2] say that both "India and Canada for all their social differences share common institutions.....have inherited their parliamentary institutions

[1] W.H.Riker, *Federalism: Origin, operation, significance*, Boston: Little Brown and Company. 1964. P.152.

[2] Balveer Arora and Douglas Verney, "Introduction", in B.Arora and D.Verney (eds.), *Multiple Identities in a single State: Indian Federalism in Comparative Perspective*. Delhi: Konark. 1995. P.2.

from Britain, and both are federations, a legacy of the American Constitution". A comparison of the two, they say, would also enable one to relate Indian federalism to the American one, which has been considered "truly federal". Both India and Canada are not 'truly federal' federations, the basic assumption of the framers being "the concentration of power in the executive branch of the centre," which arose as they "decided to continue the British parliamentary tradition of strong cabinet government in the national capital. And more significantly, "(m)any political groups in Canada and India are exhibiting frustration with their centralized federations."[3]

The aim of this chapter is to examine how the governments are trying to cope with the political situations arising out of the "frustration". The comparison does not pretend to be all encompassing but is limited to a few federal initiatives or strategies only. The choice of Canada is also important to illustrate the point that nationalist assertions could take place even in highly advanced, industrial societies. Nationalism does not necessarily disappear with the attainment of developmental goals. This chapter seeks to explore how the 'federal-virtues' are sought to be applied in diverse societies in order to solve or manage nationalist assertions, to maintain unity without ever compromising on, and rather by strengthening, diversity.

[3] ibid, p.3,5.

(A) Federal Initiatives in Canada

The Dominion of Canada was established in 1867 by the British North America Act of July 1, of that year. It has ten provinces and two territories governed by the federal government. A third territory, Nunavat, is in the process of being formed as an aboriginal homeland. The polity of the country is based on parliamentary sovereignty, responsible government, and federalism. It faces a formidable challenge to its unity from Quebecois nationalist assertions-a problem arising out of the fact that democratic legitimacy can only be achieved when the constitution is endorsed or agreed to by the various and diverse groups within the nation. The country is deeply divided on constitutional issues like the terms of political association, cultural self-determination, and the distribution of rights. What happens when different cultural communities do not agree on the terms of political association is manifested in the rise of Quebecois nationalist movement.

What is attempted in this section is not a trace of Canadian constitutional history. Neither does it pretend to be study of Canadian federalism in its whole. In line with what has been argued in the preceding chapters, it will aim at explaining how Canada has come up with federal initiatives to deal with nationalist assertions, to provide autonomy to various cultural communities by way of recognizing their legitimate rights. "Much of the Canadian political system", Will kymlicka says quoting the Canadian Supreme Court, "is founded on the premise that

the 'accommodation of difference is the essence of true quality."[4] He defines Canada as a multination state. Three distinct peoples-the English, the French, and the Aboriginenes formed a federation. "These groups are 'nations', in the sociological sense of being historical communities, institutionally complete, occupying a given territory or homeland, and sharing a distinct language and history. A 'nation' in this sense is closely related to the ideas of a 'people' or a 'culture'.[5] While there are demands for autonomy, federal decentralization, recognition of differences, and minority rights, 'the historical preferences' of these communities has not been to leave the federation, but rather to renegotiate the terms of federation so as to increase their autonomy within it.[6] This point makes federal innovations and their applications all the more fruitful. As federalism is not a fixed formula, but something that changes to suit times and circumstances, the practice of federalism is presented parallel to its social and political evolution.

The Canadian federalism met with criticism from the time it was created in 1867. Quebec was the first to call for reforming the constitution and Canadian institutions. While other provinces and the Aboriginal peoples have demanded reforms of certain aspects of Canadian

[4] Will Kymlicka, "Three forms of Group Differentiated citizenship in Canada." Paper presented at CSPT conference on 'Democracy and Difference'. Yale University. April 16-18, 1993. (processed).
[5] Ibid.
[6] Ibid.

federalism, targetting the senate and other government responsibilities, Quebec has been alone in calling for a comprehensive renewal of the federal system, even the right to secede from it. Since the 1960s, a growing number of Quebecers have reached the conclusion that the Canadian constitution no longer guarantees Quebec either the means by which to develop or the protection of its identity or place as a founding people. This dissatisfaction with the Canadian federalism was expressed in May 1980 in the referendum on sovereignty association, then in a higher proportion, in the referendum of October 1995. The percentage of 'yes' and 'no' votes to the referendum were 40.44% yes and 59.56% no in 1980 and 49.42% yes and 50.58% no in 1995.[7] Quebec has been insisting that cultural dualism be formally recognised as the key founding principle of the Canadian state. The goal has been getting Quebec recognized as a 'nation' or a 'special status' within the Canadian federation with the recognition that it is a "distinct society".[8] On the other hand, from the English-Canadian viewpoint, there is a tendency since the partition of the constitution from Great Britain in 1982, to view Quebec as one province among ten provinces and to consider any deviation from this position as a threat to Canada's political stability.[9] These two views have resulted in

[7] Source: Quebec Chief Electoral Officer, Bibliohetheque Nationale du Quebec, 1995. As given in Alain G.Gagnon and Guy LaChapelle, "Quebec Confronts Canada: Two Societal Projects Searching for Legitimacy", *Publius*, 26:3, Summer, 1996, pp.177-191.

[8] Alain G.Gagnon and Guy Lachapalle, ibid.

[9] Ibid.

the ongoing political struggles. The most favoured political formula resorted to has been federalism. Heated debates, negotiations and deliberations on the most plausible form of federal conciliation have been taking place ever since.

The last thirty years have also seen Canada moving towards a unitary system, which has sharpened Quebecois nationalism even more, by reducing communal dualism to institutional bilingualism in federal institutions, by merging multi-cultural policies with bilingualism by establishing a Canadian Charter of Rights and Freedoms, and by imposing the equality-of-provinces principle through the establishment of the amending formulas in the constitution Act of 1982.[10] According to Gagnon and Lachapelle, "attempts to reduce provinces to junior governments in the federation have backfired in Quebec's case and led to the construction of a modern, liberal, pluralistic, and territorial nationalist project".[11]

However, the benefits Quebecers gained from being part of Canada justified maintaining the federal tie. The 'traditional claims' in Canadian political language are the demands for reforming federalism.[12] These demands all aim at preserving and strengthening Quebec's autonomy within Canadian federation. "Autonomy in this context means the possibility the provinces have to fully exercise their powers as of right

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[10] Ibid.
[11] Ibid.
[12] Marc Chevrier, "Canadian Federalism and the Autonomy of Quebec", Direction des communications, Ministre des Relations International, 1996, pp.1-25.(processed)

without having to ask for the federal government's prior consent, and to count on adequate fiscal means."[13]

A basic tenet of Canadian life has been that the country may be divided into historic regions; and the provinces reflect the 'earlier functional core-oriented regional systems' which necessitated the construction of federal Canada by means of which "these competing regional systems were to be checked and harnessed so as to create a viable, sovereign state."[14]

The search for Canadian unity has been going on ever since through refinements of the federal system. In the words of Collins: "Canadian federalism was to be an ongoing experiment in the art of the possible ever reforming itself so as to take account of the exigencies of a new situation, but never so bereft of ideas that it knew not what mission it was destined to fulfil.[15] If the mission has been one of achieving a united, peaceful Canada, a binding basis of 'state-nation' identity, the recognition of differences has also had its pressure on the negotiations making it an ongoing process, the most pronounced debate in Canada. An exploration of the initiatives would require an understanding of the key ideas of Quebec's constitutional thinking.

Quebec's demands before the 1960's focussed mainly on defending

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[13] Ibid.
[14] Colin H.Williams, "A Requiem for Canada" in Graham Smith (ed.), *Federalism: The Multiethnic Challenge*, London: Longman, 1995, p.32.
[15] Ibid.

provincial autonomy, which linked state non-interventionism with the protection of Quebec's traditional character. "It was more common at the time to speak of French-Canadian society than of a Quebec society or people."[16] The common denominator of these demands since 1960's has been the autonomist discourse. Every government demanded that Quebec have equal status with Canada, the status of a distinct society, even of an "associated sovereign people." No government was reconciled to the idea that Quebec was simply a territorial collectivity on a formal equal footing with the nine other provinces. "None felt that strengthening the language rights of francophones in federal institutions and granting rights to education in French to francophone minorities outside Quebec would adequately dispose of Quebec's traditional demands."[17] Chevrier says, Quebec's constitutional thinking –

"(...)is based first of all in a demand for recognition, namely for adequation between the discourse and operation of Canadian federalism and Quebec's political reality. It is a question of having the rest of Canada recognize the presence in Quebec of a distinct political community that existed before the creation of Canada in 1867. Then, to obtain the recognition that this national community is legitimately represented by its provincial government, which expresses its aspirations and satisfies its collective needs."[18]

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[16] Marc Chevrier. art.cit.
[17] ibid.
[18] ibid.88.

The demands for recognition is accompanied by the demand for jurisdiction with an emphasis on two aspects of division of power – integrity and coherence. It means that federal government refrains from intervening in areas of jurisdiction the constitution had already recognized as provincial and that the coherence of these jurisdictions be affirmed. "Some powers escaped the provinces because of the language of the constitution and because of the progressive transfer of jurisdictions to the federal government by Supreme Court rulings, as in the area of communications."[19] It is particularly crucial for culture, too vital for Quebec to let go because Quebec has fragmented jurisdictions over culture because of exclusive federal jurisdictions over radio and television broadcasting. Lastly, Quebec governments were concerned with participation in federal institutions. Logically Quebec would like to freely decide on its future. It would like any major reforms of the Canadian federation to be undertaken with its consent and participation.

These thinkings would point to the category of self-government rights. Kymlicka[20] categorises the Canadian demand for recognition into three:

1. Self-government rights: the view that Quebecois and Aboriginals are 'nations' and hence, have the inherent right of self-determination.
2. Multicultural rights to public support and official recognition of

[19] ibid.
[20] Will Kymlicka, art.cit.

distinct cultural practices.

3. Special representatives rights to reflect the diversity of the people.

The main concern here is with the first category as the system of federalism has been the main mechanism of recognising the Quebecois claim to self-government. Underlying the claim to self-government is also a politics of presence since "the right to self-government does seem to entail right to representation on those bodies that have the power to regulate or modify the degrees of self-government.[21]

With national unity occupying a major importance and recognition of difference being a no less important factor for Quebec's nationalism, it is worthwhile to see how Canada has come up in response. The importance of federalism is clear from a speech by the Minister of Human Resources, Pierre S. Pettigrew:

"Too many conflicts are based on the assumption that federalism is somehow a zero-sum game, that when provinces win, Ottawa loses, or when Ottawa wins, provinces lose (...) federalism is a game which everyone can win. One which, at the end of the day, the main winners are – must be the people of Canada. It is our federation that preserves our social and economic union. It provided institutions that can arbitrate among partners to make sure that we are all treated equitably, and it gives us the necessary framework for effective co-operation and co-

[21] Anne Philips, *The Politics of Presence*, Oxford: Clarendon, 1995, p.140.

ordination."[22]

Canada had thirteen constitutional conferences between 1927 and 1980 in addition to all the more or less formal meetings where provincial and federal governments could discuss constitutional reforms.[23] Few of the initiatives succeeded. Responding to the accusation that Francophone interests were underrepresented, the federal government established the Royal Commission on Bilingualism and Biculturalism in 1963. Following its recommendations the Official Languages Act was passed. The state was obliged to provide federal public services in either 'official' language at the point of consumer contact. This obligation changed the character and operations of the federal bureaucracy. Williams says, "the net effects of this initiative were to raise the profile of French to encourage a vast language training programme, to boost the psychological, instrumental and social status of French immersion programmes, and by such means to further differentiate the public face of Canada from both its British and American sources of influence."[24]

The changing political scenario in Quebec is crucial for one to understand the pressures on Canadian polity. First, the Union National government of David Johnson (June 1966-September 1968) accentuated

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[22] Pierre S. Pettigrew, "Canadian Federalism: An Exercise in Change: Growth and Fulfillment" Notes from an address to the Canadian Club, November 6, 1996, Toronto. (processed)
[23] M.Chevrier. art.cit.
[24] Collin H.Williams. art.cit. p.40.

the national character of Quebec's demands. It viewed the Canadian federations as the equal partnership of two linguistic and cultural communities, "two founding peoples, two societies, two nations in the sociological meaning of the terms." The binational concept of federalism was rejected both by the federal government and the provinces. Quebec feared that a Charter of Rights and Freedoms in the Canadian Constitution might lead to the "homogeneity of ethical visions" and not reflect Quebec's civil law traditions. Second, the liberal government of Robert Bourass (May 1970-November 1976) took on a different turn as it emphaiszed cultural sovereignty. It wanted a federation that would enable Quebec to develop its own cultural personality, a bicultural federation respectful of Quebec's distinct character. Thirdly and most importantly, for the first time, Party Quebecois, a party advocating Quebec's accession to sovereignty was brought to power in 1976. With it, Quebec's constitutional priorities took a different turn. The government saw Quebec's sovereignty combined with economic association with Canada as the means "of linking political autonomy with economic interdependence."[25] Many federal initiatives followed. Prime Minister Tradeau established the Pepin-Robarts Task Force on Canadian Unity in 1976. The final report was of the opinion that Canada had to reconcile regionalism and duality to avoid agonising over unity. This was contrary to Tradeau's "interpretation of federalism and his emphasis on individual

[25] ibid.

as opposed to communitarian rights."[26] It supported decentralization and strengthening of provinces.

The 1982 Reform:

The repatriation of the constitution in 1982 (Queen Elizabeth II proclaimed the coming into force of the constitution Act 1982) meant a loss of status and jurisdictions for Quebec. Major reforms of federalism were carried out with a package of federal provincial agreements. "Subject to the principle of formal equality of the provinces, it lost its historic right to veto over constitutional reform and found itself subject to the authority of language rights shaped by the courts, which narrowed the Quebec National Assembly's jurisdictions over education and language."[27] The constitution introduced a charter of Rights and Freedoms and empowered the courts, notably the Supreme Court of Canada, to interpret the rights. It thus replaced parliamentary sovereignty with the supremacy of constitution and courts. The Constitution Act of 1982 also recognized collective rights for the Aboriginal of Canada. It enshrines their "existing treaty rights" without defining them and introduces a procedure permitting the automatic constitutionalization of agreements a territorial claims negotiated between governments and aboriginal representatives. But the federal Indian Act reserved the title of Indian for members of

[26] Collin H. Williams. art.cit. p.46.
[27] M.Chevrier art.cit.

tribes and bands of Indians and their descendants. The 1982 Act required, for amendments depending on the area affected by it, the unanimous consent of all assemblies of provinces, or the support of federal parliament and seven provinces representing 50% of the population of all provinces or the consent of the federal parliament and the provinces affected by the amendment.

The Act was silent on the distinctiveness of Quebec. However, it took exception to the individualistic logic by recognising Aboriginals as holders of constitutionalized collective rights. The multiculturalism followed by the Act is alleged to have reduced Quebec to an ethnic phenomenon.[28] The Act is also seen to be against the basic principles of federalism; the partners consent to constitutional change while the 1867 federative pact guaranteed Quebec its autonomy, the 1982 Act, no longer required Quebec's consent for validating Canada's constitutional changes. Hence, the Act of 1982 is seen as lowering Quebec's status, and subjected Quebec's civil and political institutions to the supremacy of the constitution.

The Meech-Lake Accord: 1987

In May 1985, the federal government in an attempt to reform the federation and restore normal relations with Quebec submitted a proposal for a constitutional accord. The Proposed accord noted that the 1982

[28] ibid.

reform had wronged Quebec greatly, that Quebec could never be satisfied with the diminished status. Quebec made known five prior conditions to a support of the 1982 reform which were:-[29]

1. Recognition of Quebec as a distinct society;
2. Increased powers in the matter of selecting and integrating minorities;
3. Quebec's participation in the appointment of Quebec judges to the Supreme Court,
4. Restriction of federal spending powers, and
5. Recognition of Quebec's right to veto over reform of the constitution.

A final agreement was reached in June 1987. However, the Accord collapsed on 22 June 1990, when Manitoba and Newfoundland legislatures adjourned without endorsing the constitutional amendment. The Accord, although it did not establish a new division of power, was significant for three reasons as Mc Rae[30] points out it was an exercise, a symbolic recognition an opportunity to re-affirm Quebec's role in Canadian duality, the Accord also signalled Quebec's commitment to Canada and the latter's recognition of the former's distinct society status and thirdly, the Accord could have ended an insulting notion that English Canadians were monitors of charter rights within Quebec.

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[29] Ibid.

[30] K.K.McRae, The Meech- Lake Impasse in Theoretical Perspective – Cited in Collin H.Williams, art.cit., p.49.

The Charlottetown Accord, 1992:

The Belanger-Campeau Commission, in its report tabled in March 1991, concluded that Quebec had two political options – accession to sovereignty or negotiating with Canada a new partnership within the federal framework. A legislation was passed by the National Assembly authorising a referendum on 'Sovereignty' to be held on October 26, 1992, unless acceptable federal reforms were received. A strategy was finalised at Charlottetown by the federal government after intense federal-provincial negotiations. The Accord advocated a new elected senate with limited powers in which all provinces would be equally represented. Quebec was to have a guaranteed minimum of 25 percent representation in the House of Commons and three of nine justices in the Supreme Court. The Accord proposed a fundamental reform of federation for all of Canada. In addition to recognising Quebec's distinct character, and entrusting its promotion to the Quebec government and legislature, it enshrined multiculturalism, the equality of provinces, and sexes, etc. It also instituted a third order of Aboriginal government left to court arbitration.

Two referendums were held in October 1992 – one federal – held outside Quebec, and the other in Quebec under its laws. Eventually 55 percent of Canadian population and nearly 57 percent of Quebec population rejected the Accord.[31]

[31] See Williams, art.cit. p.58.

In Canadian constitutional discourses, national unity has always been given utmost importance. Federalism has been the most widely debated principle on the political agenda. Canada is a multicultural country; and Quebec is not a monolithic society within Canada. Most importantly, therefore, Canada seems to have realized that a cultural identity–blind constitution cannot be the foundation of Canadian political life. It cannot, and should not be, a country where everyone should be the same, forced into some one-size-fits-all model, which will eventually fit none.

At one level, Canada's federal system also suffers, like many other countries from centralizing tendencies of the courts. "In federal systems, judicialization usually works to the advantage of the national government. High courts in federal systems are more likely to strike down policies adopted by regional or provincial governments than those adopted by national governments."[32]

In Canada's case, as S.I.Smithey says: "In numeric terms, the court has been fairly evenhanded in its approach to national and provincial power. On a symbolic level, however, the court has been a nationalist institution."[33]

However, Canada has continued its search for its national unity

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[32] Shannon Ishiyama Smithey, "The Effects of the Canadian Supreme Court's Charter Interpretation on Regional and Intergovernmental Tensions in Canada", *Publius*, 26:2. Spring, 1996, pp.83-100.
[33] ibid.

through federal initiatives. Its federation has certainly been modernized since 1867. Quebec's most fundamental demand has been based on its desire to live in a political system where the language and structure of representative institutions are in accord with its will to establish itself as a political community sharing sovereignty with the rest of Canada. While federalism has been the most important resort for maintaining both unity and diversity, for reconciling democracy and nationalism, it still remains to be seen whether a final federal agreement solves these problems in Canada.

B. Federal Innovations in India

At independence, India opted for a secular, parliamentary, federal democracy, which was seen as crucial to maintaining national unity. The constitution of India describes the political arrangement as the 'Union of States'. Since the republic was formed, a central concern has been the preservation of 'unity in diversity'. Side by side with the processes of nation-building, India has also witnessed many forms of regional and sub-nationalist movements. These movements may be read in two ways – as threatening the national unity and hence to be curbed by any means, or as something that is natural and even welcome to a democratic functioning. The second would require that the state does find democratic solutions to such problems.

India has not remained passive to the voices of marginalised and

disadvantaged peoples or to sub-nationalist assertions. The most important resort has been to federalism, which has seen various innovations in the Indian context. And the search for more viable forms of institutional arrangements has not ended. Balveer Arora says:

"(T)he search for appropriate institutional arrangements for constitutionally organizing the manifest interdependence of states and regions is by no means a new one, nor is it limited to India's federal experiment. Pluri-ethnie asymmetrical federations share certain common characteristics and they need to devise arrangements which allow for the participation of all segments without endangering the existence of the Union itself."[34]

This section analyses some of the federal innovations that India has developed to deal with nationalist assertions, to empower peoples, and to deepen democracy. India, which is usually described as more unitary than federal, has been testimony to the flexibility of federalism with its various innovations to meet demands of different situations.

There are broadly three dimensions to federalism – the socio-cultural, the political, and the administrative. The first 'recognises pluralism as a valid basis of collective peaceful co-existence', the second seeks to stabilize a pattern of constitutional diffusion of power in order to

[34] Balveer Arora, "India's Federal System and the Demands of Pluralism: Crisis and Reform in the 80's" in Jyotpal Choudhury (ed.), *India's Beleaguered Federalism: The Pluralist Challenge*. Tempe, Arizona: Centre for Asian Studies, 1992, p.7.

reconcile the twin concerns of common/generalized 'shared-rule' with specific/particularist 'self-rule', while the third 'co-ordinates the legitimate distribution of power and jurisdictions between the legitimate distribution of power and jurisdiction between various units'.[35] In India, federalism may be said to exist at two levels. The first is the centuries old co-existence of many cultures even before the political formula of federalism was applied on these cultural groups, which is the second. The main concern in India has been one of reconciling political unification and social diversity.

'Unity in diversity' attains its value particularly when heterogeneous societies want to be organized in a political arrangement. The rationale behind federalism should be understood in that sense. To quote Balveer Arora and N.Mukarji: "The core of the federal principle is democratic since it attaches a special value to linkage by mutual consent and the uniting of separate socio-political entities within a system that provides for dispersal of power, thus ensuring the maintenance of distinctive identities."[36]

It is in this light that Indian federalism can be examined. The strong centre is a fact of India's federal polity - necessitated by the eagerness of a pan-Indian nationalist movement, and the imperatives of preserving the

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[35] Rasheeduddin Khan, 'Introduction' in Rasheeduddin Khan (ed.), *Rethinking Indian Federalism*, Shimla: IIAS, 1996, V.

[36] Balveer Arora and N.Mukarji, 'Introduction: The Basic Issues', in N.Mukarji and B.Arora (eds.), *Federalism in India: Origins and Development*, New Delhi: Vikas. 1992, p.2.

integrity of a newly formed union, especially after the trauma of partition. The fear of fissiparous and divisive tendencies manifested itself in the preference for a dominant central authority. It has also to be noted that "the constitution of India is not a basic agreement between federating units that were previously independent in status."[37]

"Federalism in India has a strong base but weak institutional articulation."[38] This has been due to the fact that the decades immediately following independence were characterised by a reluctance to recognise the Indian diversity with all its political implications. There was so much of faith in central planning as to discount 'institutions embedded in the local context', which "were variously considered incomplete, irresponsible, inefficient and unreliable."[39] Nevertheless, the Indian constitution may be said to be endorsing a unique kind of federal principle. It has provisions which are not necessarily based on the equality of states or clear-cut division of sovereignty between the centre and the states. It has been evolving in response to the demands for recognition by various regional cultural communities.

India's North-East has seen many violent movements directed against the state with demands ranging from autonomy to secession. While the causes of these movements in India's 'periphery of periphery', as B.G.

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[37] Rasheeduddin Khan, *Federal India: A Design for Change*. New Delhi: Vikas, 1992, p.23.
[38] Balveer Arora and Nirmal Mukarji, 'Introduction', art.cit. p.7.
[39] ibid. p.10.

Verghese[40] describes, are numerous, and vary from state to state, there is much that can be done in the field of institution building to arrest these movements in a democratic way. As the sub-nationalist movements in the North-East have been most persistent, it would be worthwhile to analyse the federal strategies devised by the Indian state.

The struggle for recognition is more intense in the case of the North-East where isolation has occurred due to various reasons including geographical features to political policies which have regulated areas in terms of Inner Line Regulation Act, partially or completely excluded areas, etc. To quote B.G. Verghese, "(t)he dominant Aryan way of national thinking has accommodated the Dravidian reality but has yet to appreciate the Mongoloid factor in the Indian ethos."[41] After independence, when the people joined a new India, they were "confronted by a vast number of cultural strangers clothed with power and claiming guardianship over them..."[42]

Movements in the North-East range from demands for complete sovereignty to autonomous statehood. As T.Mishra and U.Mishra observe, while "self-determination for the nationalities...caries an irresistible appeal, in the context of the NE, with its myriad of ethnic groups and communities, it is doubtful whether self-determination for particular

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[40] B.G. Verghese, *India's North-East Resurgent: Ethnicity, Insurgency, Governance, Development*, Delhi: Konark, 1996, p.280.
[41] ibid., p.281.
[42] ibid., p.282.

group would meet the aspirations of the minority sections of the population."[43] In such a situation, federal innovations of enabling 'self-rule' becomes all the more challenging.

Narratives on this part of the country have shown excessive preoccupations with violence whereas the positive implications of the sub-nationalist movements on the political processes of democratic participation and institution building and sustenance have often been ignored.[44] It may safely be concluded from what will follow that it is in this region that the Indian government has experimented with a variety of federal institutional innovations. Innovations on asymmetrical lines have characterised government of India's federal strategies in the North-East. This seems to have stemmed from the fact that these states, as Balveer Arora says,

"...were no longer merely asking for more effective participation in national policy-making, but sought to compel a fresh look at the terms of their participation in the Union. Each one of them sought a status commensurate with its perceived importance to the Union, on asymmetrical lines."[45]

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[43] Tillottama Mishra and Udayan Mishra, "Movements for Autonomy in India's North-East" in T.V. Satyamurthy (ed.), *Region, Religion, Caste, Gender and Culture in Contemporary India*, Delhi: OUP, 1996, p.139.

[44] Jyotindra Dasgupta, "Community, Authenticity, and Autonomy: Insurgence and Institutional Development in India's North East". *The Journal of Asian Studies*, 56, No.2, May, 1997, pp.345-370. See also, B.Arora & D. Verney, 'Introduction'. art.cit. p.2.

[45] Balveer Arora, "Adapting Federalism to India: Multilevel and Asymmetrical Innovations", in B.Arora and D.Verney (eds.), op.cit. p.80.

The federal strategies in the North-East may be discussed under various categories – the formation of new smaller states, the special status these states enjoy within the Indian federation, and the special institutional mechanisms devised which are specific to these states.

What is described as The Northeast formerly consisted of Assam, Manipur, Tripura and North-East Frontier Agency(NEFA) under Assam. Following movements of autonomy by different ethno-regional communities, the states of Nagaland, Meghalaya, Mizoram and Arunachal Pradesh were craved out of Assam. The formation of these states presents an interesting history as well as lessons on sub-nationalist claims and their solutions within the system of an existing national polity. Following the power given by Article 3 of the Indian Constitution, the Parliament has often changed boundaries of states and created new states. Graville Austin[46] finds about a dozen laws in this regard. This power has been used most frequently in the Northeast in the name of keeping peace in a border region.

If weak institutionalization and unaccommodating policies and leaders can push self-determination movements into more "extreme directions of secession as a goal and militancy as a tactic,"[47] India's initiatives in the formation of new states and empowerment of different

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[46] Graville Austin, 'The Constitution, Society, and Law', in Philip Oldenberg (ed),*India Briefing*,1993,Westview Press,Boulder,1993,p.108.

[47] Atul Kohli. 'Can Democracies Accommodate Ethnic Nationalism? Rise and Decline of Self-determination Movements in India', *The Journal of Asian Studies*,56.No2.May1997 pp-325-344.

cultural communities could be seen as an inclusionary, accommodating policy.

The first state that was formed out of Assam was Nagaland. The grant of statehood to Nagaland by the Thirteenth Amendment (1962) was significant, for it had some 'special provisions' under article 371A. The Act also provided that no Act of parliament in respect of religious or social practices of Nagas, Naga Customary Law and procedure, the administration of civil and criminal justice involving decisions according to Naga Customary Law, ownership and transfer of land and its resources shall apply to the state of Nagaland without the consent of the Nagaland Legislative Assembly. It was also significant for the introduction of what may be called the Scottish pattern of federalism. The administration of the Tuensang Area was to be the special responsibility of the Governor of Nagaland for a period of ten years. The Tuensang Regional Council consisting of elected representatives would administer this area. All laws passed by the Nagaland Legislative Assembly would not be introduced into this area without the concurrence of the Tuensang Regional Council. One of the representatives of Regional Council in the State Assembly should be appointed minister for Tuensang Area. This was quite a unique formula experimented in the search for more federal arrangements.

The special status granted to the North-East states are constitutionally entrenched in Article 371. Article 371G provides for the safeguard of Mizo Customary law and religious/social practices.

Likewise, Article 371H gives special responsibility to the Governor with regard to law and order in the case of Arunachal Pradesh. In the states of Assam and Manipur, Articles 371B and 371C respectively empower state legislatures to meet the needs of specific areas within the states.

However, a fact about the small states of this region is their dependence on central subsidies and financial privileges, which "accentuates feelings of frustrations, when confronted with a centralised and unresponsive bureaucratic apparatus."[48] The establishment of the North Eastern Council (NEC) has in a way enabled them to negotiate with centre on better terms. The North Eastern Council Act, 1971 entrusted the council with functions on any matter of common interests in the fields of (1) economic and social planning (2) inter-state transport and communications and (3) power or flood control projects. It is expected to forward proposals on (a) coordinated regional plans (b) priorities and (c) location of projects, etc., for securing a balanced development of the North-East.

The Council, however, suffers from lack of autonomy in financial matters. It is generally considered powerless to take independent decisions and to implement them. Recently Sikkim has been admitted as the eight member of the Council. The Vice-Chairman of the Planning Commission has been made the Chairman of the Council in a move aimed at better coordination.

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[48] Balveer Arora, "Adapting Federalism to India". art.cit., p.81.

What is noteworthy is that the NEC is an institution meant for a specific region to address developmental issues of that area. Apart from enhancing participation in the decision-making process, it symbolises the recognition of the urgency of crafting federal institutions to enable a socio-cultural community of a particular region to form and raise collective voices. Hence, the formation of the NEC may be seen as another important federal strategy. Balveer Arora says that "the NEC can be credited with the development of some degree of multi-state regionalism, which other zonal councils have failed to achieve."[49]

The Sixth Schedule: The most detailed and most encompassing provision in the Constitution of India that relates to giving substantial autonomy to cultural communities is the Sixth Schedule under Article 244. This schedule provides for establishing Autonomous District Councils, which come under what Balveer Arora calls "sub-state political structures."[50] It contains provisions as to the administration of tribal areas in the states of Assam, Meghalaya, Mizoram and Tripura.

The Sixth Schedule was incorporated into the constitution after prolonged debates, which took place after Sardar Vallabhai Patel, Chairman of the Advisory Committee on Minorities, Fundamental Rights, etc. submitted to the President of the Constituent Assembly the Report of

[49] Balveer Arora, ibid., p.84.
[50] ibid.

the Bardoloi committee. The fear of a further break-up of the country propelled some members to oppose the incorporation of the schedule.

Kuladhar Chalika remarked –

"There is an old separatist tendency and you want to keep them away from us. You will then be creating a Tribalistan as you have created Pakistan. It is said that they are very democratic people, democratic in the way of taking revenge; democratic in the way that they first take the law into their hands. And it is threatened by some that they are so democratic that they will chop off our heads. There is no need to keep them away from us so that in times of trouble they will be helpful to our enemies."[51]

Others felt that these people would combine with Tibet or Burma. District councils were seen as 'perpetuating primitive conditions of life.'[52] However, other members like B.R. Ambedkar, A.V. Thakkar, Rev. Nichols–Roy and Gopinath Bardoloi defended it and saw to its incorporation in the constitution. Nichols-Roy said that to keep frontier areas safe, people must be kept in a satisfied condition. Bardoloi argued that District Councils would enable people to come closer to the people of the country.[53] The Schedule classifies some area as autonomous districts

[51] Cited by R.S. Lyngdoh, *Government and Politics in Meghalaya*, New Delhi: Sanchar, 1996, p.223.
[52] ibid., p.226.
[53] ibid., p.224.

and some as autonomous regions. The main provisions are:[54]

i) There shall be a District Council for each autonomous district consisting of not more than 30 members, of whom not more than four persons shall be nominated by the governor and the rest on the basis of adult suffrage.

ii) Powers of the District Councils and Regional Councils to make laws include matter of –

1. The allotment, occupation or use or the setting apart of land other than which is reserved forest, for the purposes of agriculture, grazing, residential or any other purpose likely to promote the interests of the inhabitants of any village or town.
2. The management of any forest not being a reserved forest.
3. Use of canal or water-course for the purpose of agriculture.
4. Establishment of village/town committees.
5. Inheritance of property.
6. Marriage and divorce.
7. Social customs, etc.

Other powers include with the approval of the Governor – (1)

[54] See Manilal Bose, *Historical and Constitutional Documents of North-Eastern India*, Delhi: Concept Pub. Co. 1979, pp.228-48.

constitution of village councils and courts and powers exercised by them (2) procedure to be followed by them (3) the enforcement of decisions and orders of such councils and courts, etc. The District Council for an autonomous district may established, construct or manage primary schools, dispensaries, markets, road transport, etc. The schedule provides for constituting a District Fund. It has powers to assess and collect land revenues and to impose taxes.

It lays down that licenses of leases for the purpose of prospecting for, or extraction of minerals may be issued by a Council and the share of the royalties accruing from these shall be made over to the District Council.

The Sixth Schedule represents a big step forward in giving autonomy and some amount of self-rule to tribal peoples. Many tribal predominant areas in other parts of the country are covered by the Fifth Schedule and these areas are called Scheduled Areas, not Tribal Areas. "As stated in the report of the Working Group on VIIIth Plan for Scheduled Tribes (Planning Commission), while the ethos of the Sixth Schedule is self-rule, the main purpose of the Fifth Schedule is paternalistic protection by the Union government."[55] The Fifth schedule in comparison to the Sixth Schedule offered much less. It "merely provides for (a) special responsibilities of the Governor and the Union

[55] B.K.Roy Burman, "Issues in Extension of 73rd and 74rd Amendments of the Constitution in the Sixth Schedule Areas". Outline of Keynote address in the Seminar on the Theme by PRIA, New Delhi: 18.6.1999 (processed).

with regard to backward areas: (b) advisory councils for tribal areas...."[56]

It is not that the Sixth Schedule or District Councils do not suffer from any drawbacks. It has been alleged that the Sixth Schedule is short of systemic devolution of power and functions. It is, as Arora says, cast in the same unitary mould and suffers from inadequate finances, insufficient autonomy. He cites the suspension of the Karbi Anglong council by the state government until quashed by the High Court as an example of interventions affecting the working of District Councils. R. N. Prasad says that Councils do not have expert officials or technical experts and that the absence of a provision for the co-ordination of the activities of the councils and the state governments is another drawback.[57] The States Reorganization Commission was surprised that the District Councils were not making use of the Deputy Commissioner in the administration of the district.[58]

Despite the inadequacies, the Sixth Schedule represents a major federal strategy to meet the demands of different contexts. It is also a move away from "a mechanical reproduction of the standard division and balance of powers between federal and regional governments...."[59] Dasgupta sees it as a welcome power-sharing approach. "The issues of autonomy, from this perspective, were not defined in the oversimplified

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[56] Balveer Arora, "Adapting Federalism to India", art.cit, p.85.
[57] R.N.Prasad, *Government and Politics in Mizoram*, New Delhi: Northern Book Centre. 1987, p.153.
[58] Lyngdoh, op.cit.
[59] Jyotindra Dasgupta. art.cit.

terms of an absence of federal control over states" and "the notion of federalism in such institutional design is one of a structure of cooperation."[60]

It is true of the North-East that most of the movements are nationalist, whatever be the immediate causes. However, if one takes into account practical considerations of the viability of sovereign independent states, all nationalist claims may not qualify for self-determination. That is the reason behind such a remark: "what emerges beyond dispute is that all peoples do not have the right to self-determination, they have never had it and they will never have it.[61]

However, as self-determination is not meant only for the sake of it but is valued because of the democratic elements in it, the search may always go on as to what is the best way of reconciling the two principles of democracy and nationalism. Federal innovations in India's North-East may be seen in that light.

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[60] ibid.

[61] Cited in Michael Freeman, "Democracy and Dynamite: The People's Right to Self-determination", *Political Studies*, Vol.XLIV, No.4, Sept.1996, pp.746-61.

CHAPTER V

CONCLUSION

It is clear from the above discussion that Indian federalism has within it culturally sensitive components. The very flexible nature of India's federalism has proved to be valuable so that the search for new strategies and innovations are not hampered. In the case of the Northeast, the formation of new smaller states should be seen as part of a federalizing process which was called for by demands of recognition, autonomy, and even secession from the Union. The provision for the establishment of District Councils under the sixth schedule represents a unique blend of territorial and non-territorial (ethno-historical) features of federalism. It is a kind of autonomy required for the preservation of cultural identities by enabling 'self-rule' in some key areas. As has been argued, if federalism is a formula of maintaining unity and diversity by a combination of 'self-rule' and 'shared-rule', India may be said to be second to none in that search.

The same may be said of Canada, which has seen many major initiatives in the front of federal strategies. The Meech-Lake Accord and the Charlottetown Accord were major initiatives in search of an acceptable federal formula for the whole country. While both Accords failed, they nevertheless contained refinements of the federal systems. In Canada, after the Meech-Lake Accord, there was a fear that separatism might triumph. The granting of 'too much' autonomy is always a matter of panic in any federation. However, in Quebec

separatist ideals had always been tempered by economic realities. The fact that in a federation all members are sovereign to a degree has been instrumental both in establishing and maintaining federations. The requirements of a 'coming together federalism' and a 'holding together federalism'[1] may not be the same. Generally in coming-together federations, the component units see to it that no major, substantial amount of independence in areas usually considered their own is surrendered to the centre i.e. the federal government. They retain considerable amount of their original independence, the policies abide by the requirements of different situations. In some cases, there may arise the need for strengthening the centre, and in others, greater empowerment of the units may take place to keep them satisfied. In the latter, power flows down from top to bottom. In the cases of controversies in coming-together federations, the members might insist that as founding-members they deserve to be on an equal footing. Canadian federalism seems to have been shaped by the dictates of both coming together and holding together; whereas in India the imperatives of the latter have been more prominent in the federal evolution.

In both India and Canada, the major challenge has been the accommodation of diversity. Being federations, both countries provide some amount of self-government to the constituent units. Under the federal division of powers, Quebec already has extensive jurisdiction over issues that are crucial to the survival of French culture, including

[1] Alfred Stepan, "Comparative Democratic Federalism". *Seminar*, 459, November, 1997, pp.16-35.

control over education, language, culture and immigration. However, the other nine provinces also have these powers. Greater decentralization is undesirable for most English Canadians – one reason why the Charlottetown Accord got defeated.[2] Quebec's insistence has been that as it is one founding partner of the federation, a duality between Quebec and the rest of Canada should be maintained with a distinct-status for itself. This sort of asymmetrical federalism has happened easily in the Indian case.

The ethic of federalism is a "necessary cohabitation of cultures"[3] which encourages the moral principles of tolerance and solidarity. It also underlines the complimentarity of belonging to different identities e.g. both to Quebec and to Canada, both to a cultural community in India's North-East and to India as a whole. "Federalism as a public philosophy encourages tolerance, which is expressed through our ability to understand different ways of doing things. Tolerance also encourages our ability to accept different ways of contributing to the life of a society."[4] Federalism is also about constitutionalism. However, 'the state constitution and the national community should not be confused. While the state constitution sets the citizens in a specific relationship to each other, there is another which is wholly different

[2] Will Kymlicka, "Three Forms of Group Differentiated Rights in Canada", Paper presented at the CSPT Conference on Democracy and Difference. Yale University, April 16-18, 1993, pp.1-25. (processed)

[3] Stephane Dion, "The Ethic of Federalism", Notes for an Address to the Conference – "Identities – Involvement – Living Together in Federal States: International Aspects of Federalism." Sainte-Foy, Quebec. September 30, 1996 (processed.)

[4] ibid.

from this...the free co-operation of the members of the nation'.[5] This is the reason behind the proposal that a federal arrangement should be as sensitive as possible to the existence of many cultural communities.

A logical extension of self-government rights, as Kymlicka says, should entail that "The group should have *reduced* influence (at least on certain issues) at the federal level."[6] But a holding-together federalism will not be confident enough to put this in practice. If in India such a situation has not arisen, it may be due to the system of representation in the parliament, and the kind or field of autonomy granted to cultural communities.

It is a fact that in Canada federal negotiations, the model of individuals as bearers of pre-social rights does not help. The issue of identity has dominated constitutional-federal politics in the country.

Simone Chambers succinctly puts it:

"Constitution making in culturally divided societies faces the problem: on one hand, we need "people" to be able to speak as one [redacted] in order to fulfil the voluntarist aspiration of modern constitutionalism; on the other hand, creating a people through assimilation now appears to violate the very same democratic or voluntarist aspirations."[7]

Reconciling the pulls of different identities which tend to go in

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[5] W.Von Humboldt, cited in Dario Castiglione, "The Political Theory of the Constitution", *Political Studies,* XLIV, 1996, pp.417-35.
[6] Will Kymlicka, art.cit.
[7] Simone Chambers, "Contract or Conversation? Theoretical Lessons from the Canadian Constitutional Crisis", *Politics and Society*, Vol.26, No.1, March 1998, pp.143-172.

different directions with the value of democratic union is a practically challenging task. It is in keeping with such imperatives that federalism has been defended in the present work, because 'constitutionalism in an age of democratic diversity is more about keeping a conversation going than getting all the parties to sign on the dotted line at one time and place'.[8] In this regard the flexibility of federalism had been analysed in previous pages. The demand of democracy in our times is that there be no imposition of unitary identities. That is even more important to keep a country united i.e. if unity is desirable for the parties concerned. Charles Taylor says the secession of Quebec from Canada became real possibility just when the value differences had been eroded.[9]

Many federal innovations of power-sharing have been devised in India and asymmetrical federalism has been translated into institutional reality. This has been more pronounced in dealing with sub-nationalist and secessionist claims in India's North-East. The incorporation of the Sixth Schedule since the commencement of the constitution and the creation of smaller states have been major federal strategies. The economically non-viable stature of these states has been a major problem area in relations with the centre. While some of the strategies have been aimed at managing the violent movements, these movements have not died down. What could possibly have gone wrong? Have these movements anything to do with federal institutional arrangements? Is the institutionalization problem-free with the blame

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[8] Ibid.

[9] Charles Taylor, "Shared and Divergent Values" in R.L. Watts and D.M. Brown (eds.), *Options for a New Canada*, Toronto: 1991, p.54.

to be put on other areas like developmental strategies? Yet another aspect that can be explored in the relationship of the institutions with the larger political system. Would the same institutions/arrangements, say District Councils, produce different effects in different political systems? viz. a presidential system or a parliamentary one? Or, are asymmetrical arrangements something that is specific to, and effective only in parliamentary regimes? Would such arrangements be at all required in presidential regimes? These questions may need further research. By way of a hypothetical assertion, it may be maintained that while there are a lot that may be done on the institutional front, the persistence of any social problem is not due only to a failure on institutional building – because a social problem has other dimensions than can not be tackled by institutions only. A search for alternative frameworks – a better institutional translation of the principle of combining 'self-rule' and 'shared-rule' should continue so that there may not be a vacuum between normative goals and institutional realities. And in the search, it should be kept in mind that federalism as a principle may help in a 'necessary cohabitation of cultures', in recognizing differences politically i.e. in constitutionally recognizing identities, which is necessary for long term stability.

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