

See discussions, stats, and author profiles for this publication at: <https://www.researchgate.net/publication/255727548>

# The Federal Solution to Ethnic Conflicts

Article · March 2012

---

CITATIONS

3

READS

258

1 author:



**Baogang He**

Deakin University, Burwood, Melbourne, Australia

171 PUBLICATIONS 1,779 CITATIONS

SEE PROFILE

Some of the authors of this publication are also working on these related projects:

Project

Local Deliberative Democracy in China [View project](#)

Project

Political Science in China [View project](#)

# The Federal Solution to Ethnic Conflicts

Baogang He

Two thousand five was a watershed year in the contemporary history of Asian federalism. The formation of asymmetric federalism in Indonesia was marked by the granting of substantial autonomy to the Aceh people in the 2005 peace agreement. In the Philippines, President Gloria Macapagal-Arroyo's 2005 State of the Nation address to Congress has accelerated the process of federalization. These two events point to fundamental changes in Asian governance with regards to minorities and ethnic conflicts.

Conflicts over ethnic homeland rule, the right to territorial autonomy, and even nation-statehood have been played out in Asia, where it has been debated whether federalism is the best system to reduce or contain ethnic conflicts. The international community has questioned whether the multinational federalism of Spain and Canada offers a successful model for Asia. It has also questioned whether underlying norms such as the right to territorial autonomy, the right to self-determination, and the right to remain unassimilated are universally acceptable.

In the 1940s and 1950s, many Asian countries attempted to build federal systems, but most failed very soon after. Federalism was conceived as a form of political union between India and Pakistan and between Malaysia and Singapore. It failed, resulting in the partition of India and Pakistan and the

**Baogang He** is chair professor in International Studies, Deakin University, Australia. His next work, *Federalism in Asia*, will be published in 2007.

secession of Singapore from Malaysia. After these events, federalism nevertheless was introduced in India, Pakistan, and Malaysia. Indonesia became a federated republic of ten provinces in 1948, but this federation was short lived, since a unitary structure was firmly established. China also rejected the Soviet type of federalism in the 1950s.<sup>1</sup>

In the first few decades following decolonization, Asian states, distrustful of federalism, attempted to build unitary and homogenizing nation-states. Now, despite failure, frustration, and obstacles, there have been calls for federalism in many Asian countries. The voice for federalism is much stronger in countries where there have been resistance movements from ethnic and religious minorities, secessionist movements, or civil wars—for example, in the Philippines, China, Burma (Myanmar), Indonesia, India, Sri Lanka, and Pakistan. Even the former Singaporean Prime Minister Lee Kuan Yew raised the question of whether Malaysia and Singapore could reunite as a federal entity one day.<sup>2</sup>

There are currently several stages of federalism in Asia. India is a well-developed federalist state that is often compared with the United States and Australia. The Philippines and Indonesia can be considered “incipient” or “infant” federalist states, since they are moving toward federal-style governance, although Indonesia may not accept the term. Hopes for federalism have been frustrated in Sri Lanka and Burma (Myanmar), classified as “failed federalisms.”<sup>3</sup> Mainland China and Hong Kong have developed somewhat authoritarian but nevertheless quasi-federal institutions. Other nation-states that could consider federalism include Thailand, in order to address the aspira-

tions of Patani separatists in the south, and North and South Korea. This paper will examine how best to apply the federalist idea in Asia.

This paper will examine Asian federalism and argue that asymmetric federalism is the form most appropriate to deal with minority issues and the national identity question in Asia. It will briefly review Asian federalism, examine the debates on the Western models of federalism, discuss the relationship between federalism and the national identity question, and, finally, investigate whether and how federalism can reduce or contain ethnic conflicts.

### **The Mapping of Asian Federalism.**

According to the Blackwell Encyclopedia of Political Institutions, federalism is “a form of territorial organization in which unity and regional diversity are accommodated with a single political system by distributing power among general and regional governments in a manner constitutionally safeguarding the existence and authority of each.”<sup>4</sup> In this definition, the political structure is understood in part by the wording of the constitution. In order to analyze federalism in Asia, it is necessary to examine the constitutional definitions of power relations, bicameralism, constitutional courts, and autonomous rights.

Such analysis reveals that there are many approaches to federalism in the written constitutions of Asia. The 1948 Burma (Myanmar) constitution defines Burma (Myanmar) as “the Federated Shan States and the Wa States.” By contrast, federalism was written into the 1957 Constitution in Malaysia. India is specified as a Union of States in its 1950 Constitution. Although these states are defined legally as “federal,” the structure’s power to deal with polit-

ical problems is through its practices, not just its laws.

A test case from India highlights the importance of constitutional principles, in particular the separation of judicial and executive power. This provision is in Article 50 of India's constitution. The Supreme Court has original jurisdiction in any dispute between the Government

function of the system varies and needs to be further studied. India has two houses, the Council of States and the House of the People. Pakistan's Federal Assembly is comprised of an indirectly elected, but largely advisory Senate and a popularly elected National Assembly. The Republic of the Philippines has a bicameral Congress, consisting of 24 elected sena-

## Are underlying norms such as the right to territorial autonomy, the right to self-determination, and the right to remain unassimilated universally acceptable?

of India and one or more states (Article 131). On 21 April 1989, the federal government dismissed the Janata Dal government of S.R. Bomma in Karnataka on 21 April 1989. Only after five years did the Supreme Court find that the central government had not ascertained the bone fides of the nineteen alleged defectors' letters, and "acted in undue haste." Although such a ruling was unable to restore the already-dismissed Assembly to power,<sup>5</sup> it demonstrated some separation of powers provided by the Constitution. This example of law in practice reinforced the state's federalist structure.

Another characteristic of a federal system is a second legislative chamber, which can promote national unity. Members of the second house can bring and balance regional interests in federal politics, act as a check on executive federalism, and force the government to listen to the voice of minorities, which may soften a central government's extreme position. In Asia several countries have developed bicameral legislatures, but the

tors and 250 representatives. In recent years, senators have been a driving force for the establishment of federalism in the Philippines.

These are the structures characteristic of Asian federal states, but it is even more important to examine how effective these structures can be in resolving political problems.

**Competing Models of Federalism in Asia.** The most important debate is over what kind of federalism can successfully achieve autonomy, contain and reduce ethnic conflicts, and facilitate and promote democracy.

*Regional (or territorial) federalism* can be characterized as the universal protection of individual rights, the neutrality of the state with regards to different ethnic groups, the absence of an internal boundary for ethnic groups, the division and diffusion of power within a single national community, and regions rather than ethnicity being the basic unit of the federal polity. The federalism of the

United States and Australia are the models of region-based federalism.

The federalism of Canada, Spain, and Belgium are the models of *multinational federalism*, in which federal constitutions accommodate concentrated ethnic groups. An internal boundary is drawn to enable minorities to exercise minority rights and self-determination and to achieve ethno-national homeland. Political philosopher Will Kymlicka defines multinational federalism as “creating a federal or quasi-federal subunit in which the minority group forms a local majority, and so can exercise meaningful forms of self-government. Moreover, the group’s language is typi-

universal citizenship should be the basis for the federal unit. In practice, the state tends to pursue a mix of both if the force of ethno-national groups is strong.

The idea of federalism in Asia poses a set of interrelated questions about whether Asian states can or should follow the Western models of federalism. The American/Australian model of territorial federalism is stable, but many consider it to be largely irrelevant for Asia.<sup>7</sup> The Belgian/Canadian/Spanish model of multinational federalism is relevant to Asia but inherently unstable. Those who believe that multinational federalism is unstable and problematic hold that by its very nature it promotes more contentious

## The driving force for Asian federalism comes from within—that is, from the threat to existing nation-states posed by internal groups.

cally recognized as an official state language, at least within their federal subunit, and perhaps throughout the country as a whole.”<sup>6</sup> In principle, multinational federalism seems much fairer than other systems in accommodating the desires and concerns of minorities.

The key distinction between regional and multinational federalism is whether the state recognizes the ethno-national groups’ right to territorial autonomy. In general, nation-states that opt for federalism pursue a style of regional federalism, in which different ethnic groups share a common citizenship in a civic homeland where two levels of governments share power. Ethno-national groups, on the other hand, demand exclusive self-rule by ethnicity. The contested issue is whether ethnic identity or

violence and is likely, eventually, to break down the state itself. Multinational federalism, by giving minorities pockets of majority power, undermines the ability of a democracy to function.<sup>8</sup>

Asian countries have difficulties in choosing between different Western models of federalism. It is unlikely for Asian countries like the Philippines and Indonesia to establish a regional federalism while rejecting multinational federalism. It is inevitable for some Asian countries such as Sri Lanka to adopt a form of multinational federalism with asymmetric characteristics in order to deal with ethnic conflicts. At the same time, it should be noted that multinational federalism has its limits in countries such as the two Koreas. If North and South Korea were to unify

in a federal polity, it likely would not be multinational.

The regional and multinational models for federalism have been debated in Sri Lanka. Whereas the government of Sri Lanka and its majority Sinhalese population are interested in a regional federal model combining shared and self-rule with limited autonomy for the Tamil Tigers, the Tamil Tigers' own vision of federalism is a multinational one, offering them maximal autonomy.<sup>9</sup> In 2001 the Tigers rejected far-ranging decentralization of power as inadequate and demanded in 2002 an interim local administration that would control police, judiciary, revenue, and land issues. At the same time, the right-wing faction of Sri Lanka's Sinhalese-Buddhist majority opposed the government's decentralization plan.

Debate over regional versus multinational federalism may be conceptually too narrow in East Asia. The debate largely underestimates other models of Asian federalism; for example, Pakistan and Malaysia have developed *illiberal federalism*, in which federalism coexists with and even supports the authoritarian structure. *Quasi-federal practices* were manifest in the history and contemporary practices of China and Japan where there were pragmatic recognitions of regional autonomy and sharing of sovereign practices. These two dominant forms provide the theoretical basis for most debate on whether and how other Asian states could transition to democratic federalism.

### **Asymmetric Federalism and the National Identity Question in Asia.**

In order to meet both the desire for self-government and the need for maintaining the unity of the state, Asian countries should adopt some form of

federalism. Federalism can be employed as a means of conflict resolution to deal with secessionism and ethnic division. The driving force for Asian federalism comes from within—that is, from the threat to existing nation-states posed by internal groups. The national identity question—the choice between a separate political identity and a united national identity—constitutes a background condition for federalism. The challenge of constructing a federal polity in a multinational context is a difficult task for federalists. It is not clear whether federalism is capable of resolving such thorny issues as ethnic division entirely, but it can be used to reduce or contain them within a functioning political system.

The presence of national identity issues means that the most common form of federalism in Asia is hold-together federalism rather than bring-together federalism. Federalism in Indonesia, the Philippines, Sri Lanka, Burma (Myanmar), and China (with regard to Tibet) is designed to “hold together” national unity. Bring-together federalism would apply to the reunification of China and Taiwan, as well as South and North Korea. It is much more difficult to achieve bring-together federalism than hold-together federalism. States that struggle with national identity problems should therefore consider using federalism to hold their nationalities together before they become so divided that bring-together federalism is the only option.

Asian federal institutions are inevitably influenced by the national identity question, and federal institutions have to be asymmetric to maintain diversity and difference. To preserve diversity and difference, federalism must adopt differential treatment and asymmetric policy so that the constituent units

of a federation do not possess identical powers—some should have special rights because of their social and political history.<sup>10</sup> Accordingly, some aspects of federal government, such as the equality principle (which requires equal representation of states, provinces, and minority groups in the upper house of the legislature) might be limited and modified. The Western models of federalism—regional (territorial) federalism and multinational federalism—have not been widely implemented in Asia. Instead, a third type of federalism—asymmetrical federalism with key characteristics of regional autonomy—has evolved in countries such

some [constitutional] guarantee ... of the autonomy of each government in its own sphere,”<sup>11</sup> regional autonomy presents a possible Asian way toward asymmetric federalism in Indonesia, the Philippines, and even China.

Hong Kong enjoys a higher degree of autonomy than most federal sub-units. For instance, Hong Kong has a separate customs territory and is able to participate in relevant international organizations and international trade agreements. In Indonesia quasi-federal institutions have emerged under the banner of regional autonomy. In the case of Aceh, Nangroe Aceh Darussalam (NAD),

## The attention of the international community will be necessary to ensure that the transition to federalism does not itself produce more conflict between competing groups.

as Indonesia, the Philippines, and China. This asymmetric form of federalism does not introduce wholesale Western federalization; rather, it is a piece-meal process that is more appropriate for Asia.

Constitutionally defined and guaranteed regional autonomy, designed to satisfy the desires and aspirations of one nationality or ethnic group, can be seen as a component in a federal structure (asymmetric federalism) or at least as a quasi-federal practice. Following political theorist William Riker’s minimal definition of federalism as “(1) two levels of government rule the same land and people, (2) each level has at least one area of action in the autonomy of each government in its own sphere, and (3) there is

the autonomy law, recognized the Aceh people’s long-sought religious sovereignty. The Acehnese may practice their Islamic laws (*Shari’a*). Under the NAD the Acehnese are entitled to receive 70 percent of the revenues from oil and gas. Under the peace agreement in 2005, they may hold elections for a self-governing body. In the Philippines the 1987 Constitution provided autonomous regions in Muslim Mindanao with legislative powers over administrative organization; creation of sources of revenues; ancestral domain and natural resources; personal, family, and property relations; regional urban and rural planning development; economic, social, and tourism development; educational policies; and preservation and development of cultur-

al heritage. These practices have helped to quell violent nationalism where they have been implemented.

### **Can Federalism Reduce or Contain Violent Ethnic Conflicts in Asia?**

Federalism has provided a mechanism for managing the national identity question in Asia. India's federalism demonstrates that the federal state is capable of withstanding disruptive localism and promoting national integration through territorial devolution, the guarantee of personal security, and freedom of individuals to engage in economic and cultural intercourse across the regional borders.<sup>12</sup> An illustrative case is the Mizos, who engaged in thirty years of violent struggle and insurgency for their independence from India. In 1985, however, the Mizos were granted full autonomy and their territory was recognized as the twenty-third state of the Indian Union. Now, 84 percent of the people of the state see themselves as both Mizos and Indians.<sup>13</sup>

Three factors contribute to the success of India's federalism in containing ethnic conflicts. First, the claims of minority nationalities were based on language rights and therefore did not pose a life threat to the Indian state. Second, collective regional identity did not translate into exclusively ethnic-based national identity; rather, regional identity was compatible with the Indian citizenship. Third, the central government was able to deal with internal suppression when one ethnic group dominated. Federal institutions provided countervailing measures to reduce the domination of any single ethnic group, and the center has been strong enough to protect civil rights in provinces and sub-provinces. Thus, the Indian example demonstrates that federalism can contain and reduce ethnic conflict.

**Conclusion.** While federalism contains and reduces ethnic conflicts, ironically, the decision to move to federalism is often related to violence. In the international politics of national identity conflicts, there seems to be a hidden practice of rewarding insurgents. If one follows democratic and peaceful procedures, then the UN and the international community is unlikely to see a federal solution as the first option; however, if one takes up arms, the international community is more likely to favor the federal option and even the option of petition.

To minimize the violence that accompanies a transition to federalism, the international community should intervene to convince the parties to accept the federal solution. Indeed, it was international governments and nongovernmental organizations that organized peace talks for Indonesia, Sri Lanka, Burma (Myanmar), and other countries. It was the international pressure against terrorism that forced the Tamil Tigers to give up their independence claim. The United States, the United Kingdom, Australia, Canada, and India declared the Liberation Tigers of Tamil Eelam (LTTE) as a terrorist organization; and, in November 2001, LTTE's leader Velupillai Prabhakaran withdrew his movement's long-standing demand for an independent homeland in Sri Lanka.<sup>14</sup> It was a decrease in international capital flow and tourism that led the Philippines to adopt a reconciliatory approach to the independence force in Mindanao. The war against terrorism has made security the top priority and decreased international support for independence movements. As a result, federalism as a means of maintaining national unity and satisfying the demands of minorities is increasingly appealing.



The international community needs to resist any simplistic notion of federalism in Asia and remain open to alternative models. Asian countries will need to generate a dynamic blend of various elements, including traditional rule, authoritarianism, democracy, federalism, confederalism, and pragmatic concession. Furthermore, different situations will require these elements in different proportions, and a mix of regional, multi-national, and asymmetric elements of federalism will be desirable. For example, in Burma (Myanmar) there is a possibility that the military power holders will make a deal with minority nationalities without democratization or federalization. Some solutions may be based on a historical agreement which does not necessarily involve a federal constitution,

but nonetheless puts federal structures into practice.

Based on this analysis, asymmetric federalism is the model most likely to succeed in Asia. If all parties in Sri Lanka learn a lesson from the past failure, Sri Lanka is likely to follow the Indonesian path to make a peace deal and establish an asymmetric federalism. However, the attention of the international community will be necessary to ensure that the transition to federalism does not in itself produce more conflict between competing groups. A sophisticated knowledge of the complicated working process of asymmetric federalism in Asia will help the international community to construct a federal order in which both the nation-states and ethno-national groups are satisfied.

#### NOTES

1 See also the failure of federalism in South America, the Caribbean, Rhodesia, and Nyasaland in 1953-1965, and in the British West Indies in 1958-62.

2 *Liange Zhaobao*, 29 January 2002: 22.

3 South Africa, Mexico, Nigeria, and a long list of other countries were treated as the failed federalism, but they have now achieved a certain degree of federalism.

4 Vernon Bogdanor, ed., *The Blackwell Encyclopedia of Political Institutions* (Oxford: Basic Blackwell Ltd., 1987), 228.

5 Krishna K. Tummala, "The Indian Union and Emergency Power," *International Political Science Review*, Vol. 17, No. 4 (1996): 380.

6 See Will Kymlicka and Baogang He, eds., *Multiculturalism in Asia* (London: Oxford University Press, 2005), 23-24.

7 For a discussion of the limits of the U.S. model, see Alfred Stapan, "Federalism and Democracy: Beyond the US Model," *Journal of Democracy*, Vol. 10, No. 4 (1999): 19-34.

8 In Québec, multinational federalism has fortified the minority French language at the expense

of English, the language of the national majority.

9 Rohan Edrisinha, "Multination Federalism and Minority Rights in Sri Lanka," in Will Kymlicka and Baogang He, eds., *Multiculturalism in Asia*, (London: Oxford University Press, 2005), 261.

10 See Robert Agranoff, ed., *Accommodating Diversity: Asymmetry in Federal States* (Baden-Baden: Nomos Verlagsgesellschaft, 1999).

11 William H. Riker, *Federalism: Origin, Operation, Significance* (Boston: Little, Brown and Company, 1964), 11.

12 Suri Ranapala, "Freedom as Response to Ethnic Regionalism," in Ian Copland and John Rickard, *Federalism: Comparative Perspectives from India and Australia*, (New Delhi: Manohar Publisher, 1999), 111-136.

13 See Gurpreet Mahajan, "Federalism and Democracy: The Indian Experience," the conference paper presented in the international workshop on federalism in Asia, Deakin University, 9-10 February 2006.

14 See Amita Shastri, "Sri Lanka in 2001," *Asian Survey*, Vol. 43, No. 1, 2002, 182.