Subtheme Paper

Managing Conflicts of Diversity

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Abstract

This paper surveys the range, or repertoire, of institutional and constitutional design options that may be considered by policy-makers and citizens seeking better ways to accommodate and manage conflicts associated with ethnic, cultural, and linguistic diversity. While alternative designs for federalism—one of the most wide-spread sets of devices for the effective and democratic management of such conflicts—form the core of the paper, we also address a variety of other institutions whose design will also influence the capacity to manage conflict, and which interact with federalism in important ways. These include electoral systems, the organization of legislatures and executives, the courts, and other institutions such as the bureaucracy and security services. The paper suggests that approaches to conflict management can be grouped into two sets of alternative strategies: those broadly aimed at integrating minorities into the larger whole, and those that stress the political empowerment of minority groups, through devices such as federalism. There is no universal single set of "best practices" for institutional design in divided societies. Much will depend on each country's history, demographic characteristics and culture; as well as on the preferences and political strengths of the various groups. But international and comparative experience shows that countries have experimented with a rich array of options, opening the possibility for much mutual learning.

1. Introduction

The diversities that exist in contemporary societies are themselves diverse. They have varying historical origins. They may be rooted in language, ethnicity, religion, culture, or indigenous status, or in complex combinations of these. They may or may not be associated with systematic differences in wealth or political power. Differences may take the form of a single dominant majority that is associated with one or more cultural minorities, or of multiple minorities with no single majority. Two (or more) self-conscious nations may coexist in a single state (multinationalism); or many cultures may intermingle without seeing themselves as "national" entities (multiculturalism). Distinct ethno-cultural groups may be dispersed throughout the population, or they may be territorially concentrated.

This "diversity of diversities" means that there can be no single or universal set of strategies for the successful management of conflicts of diversity. Any set of constitutional arrangements, institutional structures, public policies, and political practices designed to manage or mitigate conflict must be rooted in a deep understanding of the particular contexts in which differences appear. One size fits all solutions are thus to be assiduously avoided. One of the advantages of federalism is that it comes in so many shapes and sizes; and federalist alternatives will be the major concern of this paper.

However, it is important to explore the broader range or repertoire of responses to cultural diversity that has emerged in modern societies, and to explore some of the conditions under which each might be applicable or appropriate before we turn to federalism itself.

2. Managing Conflicts of Diversity: Normative Values

In a world of politically mobilized difference, it is important to realize that the language and terminology of the debate is itself often contested. The "management" of difference may suggest a top-down concern of the majority that tends to see ethno-cultural

diversities in their midst as a "problem" to be contained, in order to ensure peace and stability, or even to maintain the continued hegemony of the majority. The resulting strategies will not necessarily be aimed at full inclusion and social justice for the minorities. Minorities might look at the problem in a quite different way: for them, "management" will more likely stress recognition, accommodation, inclusion, or empowerment. They will ask whether the regime considers their cultures acceptable, legitimate, and valued. The starting point for the analysis is thus critical. The analysis must distinguish, and take into account, the concerns of minorities for their own preservation and development; and the concerns of majorities.

It is therefore desirable to broaden and extend our meaning of the term "managing conflicts of diversity" to encompass a broader set of values. We may suggest the following more inclusive criteria.

First is *stability*. Indeed countries must find ways to manage their diversities in ways that minimize the likelihood of violence and of threats to the integrity of the state itself. But the danger to avoid is policies that may involve the repression or suppression of minority claims in the name of order.

This suggests, second, that the management of conflict must be fully consistent with the values of *constitutionalism, the rule of law, and democratic practice*, including especially the full inclusion of minority groups in democratic politics, and their rights to free expression and participation in the political process.

Third, the normatively justified management of intergroup conflict must include some measure of *"recognition"*. That is to say that the existence and the identity of minority groups must be accepted and valued; they are not to be seen as the alien and dangerous "other". Difference is not simply something to be managed; it is also something that must be accommodated. The varying forms that recognition and accommodation might take are further discussed below.

Fourth, the successful management of difference requires that we pay attention to *social justice or equality*. Stability and order that leaves some groups permanently disadvantaged economically or socially is unacceptable.

Fifth, no set of institutional arrangements designed to manage diversity can be successful without some *minimum level of trust* among groups, and without a basic commitment of all to *"vouloir vivre ensemble"*, to "*convivencia*", or to *"bundestreue"*. It is true that appropriate institutions and policies can build and strengthen trust, but at the same time these cannot themselves be constructed from scratch. Institution-building to *reflect* an underlying commitment to unity is relatively easy; institution-building to *create* such a commitment in a diverse society is a great deal more difficult. This is one of the major dilemmas for institutional designers in divided societies.

These are, of course, very broad and general criteria for assessing what the desirable "management" of difference might look like. They may, indeed, sometimes be in tension with each other. But as diverse societies address diversity in their own multiple settings, this broader view of successful management is essential.

3. Managing Conflict: A Continuum

The fact is that, given diversity, the range of responses to it, both historically and in the present, is very wide. They can be seen as a continuum.

At one extreme is *repression*, which has all too often taken the form of genocide and forced ethnic cleansing. Next is *exclusion and marginalization*, where minority groups simply exist without meaningful participation in the economic or political life of the larger society. Next is *assimilation*. Here the dominant society puts strong pressures on minority cultural groups to abandon their own values, beliefs, languages, and traditions and adopt those of the wider society if they wish to be regarded as full citizens. Minority cultures and languages will be subordinated, sometimes by force, at other times by persuasion. This was the pattern of eighteenth and nineteenth century nation-building in many European countries, as Catalans in Spain, Bretons in France, or Scots and Welsh in the United Kingdom were "integrated" into the larger whole. It was also the dominant strategy in immigrant societies such as the United States, where immigrant groups were encouraged to

join in the "melting pot". Assimilation need not always be a deliberate strategy of the dominant group; indeed it will often be desired by members of the immigrant groups themselves. Larger social and economic forces will also affect the extent to which new groups either retain their language and culture or gradually lose them.

Repression, marginalization, and assimilation—while unhappily common—do not fall within our criteria for effective management of difference. They do not meet the minimal normative criteria set out above. We need to focus our attention to the next steps on the continuum, *inclusion, integration* and *empowerment*, for this is where federalism joins the tool-kit for effective management of diversity.

3.1 *Integrationist Strategies*

The first set of options to be considered here are what we might label "integrationist". This is a large step away from repression or assimilation. It is based on the recognition of diversity as a defining characteristic of the polity. No longer is it to be seen as mono-ethnic or mono-cultural. It is, as the South African Constitution puts it, to be "united in our diversities". Such recognition can take a great many forms, and embrace narrower or broader conceptions of acceptable diversity, a question that is frequently contested. The fundamental principle, however, is the recognition that to be a full member of the society, economy and political system, it is not required to be of the same ethnic, cultural or religious stock as the majority. Each constituent group is free to use its own language, follow its own culture and customs, and participate fully in the political process without discrimination.

This principle is easy to state in general, but sometimes difficult to apply in practice. In particular, previously relatively homogeneous societies, such as in Europe, have often found it difficult to accept visible differences, and there have sometimes been tensions between the liberal values of their constitutions and the cultural practices of some immigrant groups.

There is a wide array of alternative means of managing diffe-rence through integrationist strategies. The *constitution* in its preamble or statement of fundamental principles may include a declaration that the society recognizes or even celebrates its diver-sity, may disavow the hegemony of any dominant group, may establish two or more official languages, and so on. There are many forms of words by which the principle of diversity and inclusion can be symbolically stated in broad constitutional language. They may be of such generality that they have little impact; alternatively, they may provide an interpretive framework that courts and legisla-tures will take into account as they assess the constitutionality of legislation.

Constitutional *Bills* or *Charters of Rights* can also be used to respond to diversity. Possible provisions include the assertion of the right of dignity and equality to all persons; and clauses that ban discrimination on the basis of race, religion, and the like (which themselves may or may not include specific endorsement of affirma-tive action to benefit disadvantaged minorities). Individual rights to freedom of speech, religion, association and the like create condi-tions in which personal and group differences can flourish. However, in highly diverse societies, Bills of Rights may also contain certain collective or group rights, including rights to education and other services in more than one official language; rights to religious schools; or interpretive clauses that require the Bill of Rights to be read in an inclusive manner. They may also include "positive" rights, such as to clean air, education, or housing, and these may have particular application to various minorities.

Rules governing *constitutional amendment* in divided societies will seek to ensure that they do not permit a dominant majority to impose its will on minorities. Hence, constitutional change will normally require "super-majorities" and perhaps the specific consent of minority groups on critical issues relevant to their identity (i.e. "multiple majorities").

The integrationist approach to managing difference through *electoral systems* seeks to blend two different elements. The first is *inclusion*: all the constituent groups need to have a voice, and to

be represented in legislative institutions. The system needs to be designed to avoid "winner take all" or simple majority systems of representation, which can leave some groups on the outside looking in. This argues strongly for proportional representation, rather than the "first past the post" or single member district systems characteristic of the Anglo-American democracies. On the other hand, there is a potential danger in proportional systems that political leaders will try to build a base on narrow appeals to specific groups, thus contributing to excessive fragmentation and a multiplicity of sectarian parties. Thus, the integrationist approach seeks as well to create incentives for political leaders to build electoral coalitions that build bridges across groups. Electoral systems that embrace run-off elections, preferential (STV) voting systems, and systems (as in Nigeria) that require presidential candidates to win a majority in a number of regions are said to encourage this. But the impact of voting systems on election outcomes is highly controversial: the effect of any given system depends greatly on the context in which it is being applied. The history of electoral system "reform" is littered with unanticipated consequences.

There is considerable debate in the scholarly literature about the relative merits of *presidential/congressional* versus *parliamentary* systems of executives and legislatures. However, the literature leans strongly to parliamentary options, especially when combined with proportional electoral systems. There are two reasons for this. First, such regimes encourage the formation of inclusive coalition governments, in which multiple interests can be represented; it thus encourages a bargaining and negotiating relationship among contending groups. Second, and closely associated, coalition based parliamentary government helps avoid the potential "tyranny of the majority", and "winner take all" by requiring broad representation in the cabinet and more consensual decision-making. Majoritarianism may well provide for strong and effective government; but diverse societies must find ways to temper majority rule with greater weight for minority interests. Thus Westminster parliamentary systems with one-party majority governments are often problematic for diverse societies especially if political parties are themselves based on group interests or if electoral support for the governing

party is concentrated in only a few regions, leaving the other regions feeling excluded from power. Similarly, presidential systems may be problematic, again because so much power is concentrated in a single set of hands, though countries such as Nigeria have sought to ensure more inclusive presidencies by requiring that winning candidates win support across the country.

Second chambers in national legislatures—Senates—may also be designed to temper majority rule and to ensure representation of minorities.

Other institutions also need to be representative and inclusive of diversity. Among these are the *courts* whose membership should reflect, in law or practice, the constituent groups within a diverse society. This is necessary if their decisions, which must often deal with reconciling group differences, are to be considered legitimate by all parties. *Public services* or bureaucracies should similarly be designed to ensure representation of all groups, and to be equipped to provide services to citizens in ways sensitive to their linguistic and cultural diversity.

Public policies also need to be responsive to diversity. This begins with equal citizenship, and equal rights to the entitlements and services provided by the modern state. But integration frequently requires more—courts, police, and other services able to serve citizens in their own languages and in culturally sensitive ways, and schools that both permit education in minority languages and provide special education for immigrants in the majority language. Policies to facilitate the successful integration of new groups are especially important for those societies (such as Western Europe) that have previously been relatively homogeneous but which now must adapt to the presence of new immigrants.

Integrationist strategies for managing diversity also require that we pay attention to the structure and organization of *civil society.* Here again, two principles are at work. The first is to ensure that minority groups are free to develop their own associations and institutions, in order to ensure their ability to express their own cultures, languages, and values in the private sphere without interference. The potential danger here is that the society becomes defined by mutually exclusive "silos"—"plural monoculturalism"

in the words of Amartya Sen—in which each group lives in its own homogeneous world, with little contact with others. Thus, integration also requires that there be strong associations that bring citizens together across social and cultural divisions—"bridging capital" in the words of Robert Putnam. Public policy can be designed to facilitate such developments in civil society. For example, European Union support for development projects in Northern Ireland has required that the sponsors demonstrate how their work will bring the disparate groups together. Canada has in the past subsidised translation services in Canadian associations.

Federalism may also play an important role in integrationist strategies for the management of diversity. But recall that the dominant idea in terms of integration is, as much as possible, to blur, transcend and cut across differences, rather than to emphasize and institutionalize them. Hence, integrationist approaches to federalism are sceptical of defining state or provincial boundaries along ethnic or linguistic lines, are worried about asymmetry in state/provincial powers, and place greater emphasis on regional/provincial representation at the centre, through strong second chambers. Federalism in this approach is more about limiting power at the centre through "checks and balances", and about ensuring responsiveness to local needs in public policy and administration through devolution and decentralization than it is about empowering minorities.

These integrationist strategies with respect to the management of diversity reflect a basic national commitment to "coming together" rather than "coming apart". They tend to emphasize the "shared rule" dimension of federalism, rather than "self-rule". They constitute a powerful array of institutions and practices for managing diversity. Within this family of alternatives, the debate will be between those that emphasize unity and cohesion, and thus stress the subordination of minority identities to the national community, and those that emphasize more fulsome recognition of difference within the national polity.

But such strategies are more likely to be workable and effective in some contexts rather than others. They may be more successful

in societies with a single dominant culture and a broad variety of minorities; more successful in immigrant societies, where new groups have arrived within a homogeneous society that now has to learn to adapt to the new politics of difference; and more successful when the minority groups are dispersed throughout the society, rather than territorially concentrated.

They will be less successful when these conditions do not apply—when the minority constituent groups have a long established presence within the larger society; when they are concentrated within a particular geographic area; and when their political identities are strong and politically mobilized. In such circumstances another set of strategies needs to be explored: *autonomy and empowerment.*

3.2 *Strategies for Empowerment*

For some groups in divided societies, the tolerance of difference and politics of inclusion implied by the integrationist approach will not be enough. This will likely be the case, for example, when several dimensions of difference—language, ethnicity, race, etc.—coincide, and reinforce each other. The more distinctive the group, if it is a minority, the more it is likely to seek some form of self government. The more disadvantaged—economically or politically—it is in comparison with larger or dominant groups, the more this will be so. But this not always the case: in some countries—Spain, Belgium, Canada and Bolivia, to take just three examples—it is often the wealthiest regions that seek autonomy, in order to preserve the advantages for themselves. The stronger a group's historical roots and associated culture, the more likely it will seek empowerment in order to protect the culture and to possess the institutional tools for its growth and development. When these elements combine, the more likely it is that the group will have a strong sense of its own identity and values, perceive differences with the wider society that are not easily reconciled, and have a high degree of political mobilization. Hence, successful management of this level of diversity will most often require institutions and practices that

permit significant autonomy. This is especially the case in countries that can be called multinational, in which two or more nations coexist in a single state.

The most widely practiced political arrangement with respect to these differences is federalism. It is not the only one. Where the groups are dispersed through the population, rather than concentrated territorially, other methods may be used. For example, in the Dutch case first described by Arend Lijpart, the separate religious and cultural "pillars" had considerable autonomy over their educational, social welfare and other policy areas, but without the structures of federalism. His term for this is *consociationalism*; another is *power-sharing.*

Indeed, there is a wide array of non-federal arrangements aimed at empowerment and autonomy. The *constitution* may explicitly recognize the presence of multiple nations. *Bills of rights* may give greater weight to collective rights; and constituent units may be allowed to develop their own distinctive Bills of Rights. *Electoral systems* are likely to be highly proportional—especially important when group members are not territorially concentrated. *Legislatures* may embody specific quotas for under-represented minorities. Whether presidential or parliamentary, the *executive* will likely embody power sharing among the groups. This may be achieved by a collective or rotating presidency; or by inclusive coalition cabinets, rather than single-party governments. The organizing principle for central government institutions is likely to stress consensus decision-making rather than winner take all majority rule or minimum winning coalitions. On issues of critical importance to minority groups "double majorities" or "mutual veto" may be employed. *Public policies* may apply differently to different groups; and, as much as possible, decision-making will be delegated to them. Approaches to *civil society* will be less concerned with building "bridging" capital; and more willing to accept that there will be strong group-based civic organizations, often called "bonding capital".

But where, as is most often the case, the groups are territorially concentrated, then federalism is the preferred strategy for successful management. Indeed, it has been pointed out that all countries

with territorially organized differences practice some form of federalism. The rationale is simple. Federalism provides the institutional space within which the minority can make its own decisions and pursue its own values, without requiring the consent of the majority in the central government. Similarly, clear areas of provincial jurisdiction protect the group from the values or preferences of the majority being imposed on them. In linguistically divided societies, federalism provides the social and political space in which minority languages can flourish. In general, integrationist strategies aim for managing conflict through the full *engagement* of minorities; empowerment strategies do so through a measure of *dis-engagement.* The two strategies may, however, be combined. Institutions, politics and policy in many countries often embody elements of both.

There are of course almost as many varieties of federalism as there are countries that call themselves federal. And of course some countries that do not call themselves federal have very significant degrees of devolution of authority and autonomy to specific groups. Nevertheless federal systems that emphasize group autonomy and empowerment will likely embody some or all of the following characteristics.

First, it is likely that the *boundaries* of states or provinces will be designed to coincide with group differences. This is the direction in which India has moved since independence. This is of course, not easily achieved when populations are interspersed. In such cases a central challenge is to find ways to ensure the rights of the minorities within the constituent units.

Second, the constitutional *amending formula* is likely to require a high level of agreement, and to be designed to require the consent of a large majority of the constituent units, or, in some cases, unanimity.

Third, the *division of powers* will assign a wide range of responsibility to the units, allowing them considerable discretion in developing and implementing their own public policies. This may not always be the case. In some of the most diverse federations, central governments, fearing demands for ever-greater autonomy by states and provinces, have sought to constrain and limit the degree of decentralization, but often at the cost of severe resistance and

counter claims by the minority. Sometimes, residual clauses may allocate un-assigned powers to states or provinces. In some or all areas units may have paramountcy when policies conflict, rather than always assigning paramountcy to the central government. In general these federations will have strict limits on the power of central governments to monitor or influence provincial policies. An important question is whether powers will be assigned in the same way to all units ("*symmetry*") or whether some units—those that come closest to embracing a distinct nation—will exercise a broader range of powers ("*asymmetry*"). Asymmetry may be written into the constitution, or, more commonly, exist in the political practice of the federation. It is often controversial, and may be especially de-stabilizing if one or two large regions are accorded differential status.

Fourth, *fiscal arrangements* are likely to assign wide revenue raising and spending powers to the states and provinces. Inter-governmental transfers from the centre to the units are likely to include few—or no—conditions.

Fifth, *intergovernmental relations* are likely to be structured as a relationship among equal "orders" of government rather than as a hierarchy between "levels" of government.

Sixth, *second chambers* may be designed to directly represent states or provinces at the centre, perhaps with their members directly accountable or responsible to unit governments. This may also be the case in some more ethnically homogenous countries such as Germany.

Thus, federalism in deeply divided societies, those with territorially concentrated, self-conscious, politically mobilized minorities—or nations—are likely to be more decentralized than federations in societies that are more homogeneous, or whose minorities are numerous and geographically dispersed. In the former the dynamic forces are likely to be centrifugal; in the latter centripetal.

The design of federal systems is often contested. Self-conscious regional groups are likely to argue for greater decentralization, more asymmetry, and so on. Majority groups may well be much more concerned with ensuring the capacity of the central government to enact country-wide policies, and to establish "national standards"

in public policy. Whether responsibilities should be distributed symmetrically or asymmetrically is also often contested. So is the status of "minorities" within the units. The worry is that when a state or provincial government is dominated by a single group, the rights of others within the community may be undermined. There are, however, solutions to this problem. They may include a strong country-wide bill of rights that prevents discrimination at the provincial level; or policies of devolution or decentralization within the province to ensure that their minorities too have their own political space.

Another common challenge to federalism arises when there are major disparities in size, wealth, and resources among the constituent units. Perhaps the most contentious recent issues concern cases where natural resources such as oil and gas are territorially concentrated. The natural tendency is for groups in resource-rich regions to wish to benefit from them as much as possible. Indeed, possession of such resources may stimulate the growth of nationalist autonomous movements. On the other hand, national majorities and units without resources will argue for central control and the distribution of benefits across the whole country. Finding the right balance between autonomy and a "sharing community" is an immense challenge.

Perhaps the most difficult issue is rooted in the idea that federalism is always as much a process as a permanent state. The question then becomes whether the underlying dynamic is a continued "*coming together*" or instead one of a "*coming apart*". The minority may worry that the existing federal model provides insufficient recognition of its distinctiveness, and too few powers to express their values and preferences. They are likely to push for further decentralization and greater asymmetry. The majority fear is that such a dynamic may lead down a "slippery slope" in which the logical stopping point is not decentralized federalism, but secession.

Indeed a critical question, given mobilised autonomist groups, is whether the most effective way to ensure their continued membership in the country is to accede to claims for greater recognition and empowerment; or whether to emphasize the equality of provinces, and the integration of the minority into the institutions

and processes of the wider society. A reconciliation of these contending views may be found not in seeing these as fundamentally incompatible strategies, but rather in seeing them as complementary. That is, empowerment of the minority requires "building out" in the sense of strong provinces and a decentralized federation. Maintenance of unity also requires strong measures to represent the minorities within the institutions of the central government—"building in". Thus, the most successful strategies for managing diversity will not be found in a debate between "either/or" but rather in the search for "and/and" solutions.

4. Conclusion

This overview has drawn two sets of distinctions. The first was that between strategies for managing conflict that emphasise inclusion and responsiveness to ethno-cultural differences—integrationist strategies—and those that emphasize the autonomy and empowerment. Each of these families of alternative responses has of course many variants, only a few of which have been sketched out here. It is not possible to specify whether one or other strategy is "better". That depends on the particular characteristics of the individual country, and on the aspirations and values of its citizens and leaders.

Moreover, in many countries we find combinations of elements of the two approaches. This is because in many countries different types of diversity coexist—they are both multicultural and multinational. Responses will need to differ for each situation.

The second distinction was between responses to diversity that focus on the institutions and processes within the central government and those that focus on federalist options. Again, there is no either/or choice here. Federalist solutions on their own can never be sufficient; but centrally-focused solutions cannot work on their own wherever regionally based groups exist.

The purpose of this paper has not been to argue the case for any particular set of options for managing diversity, either in general, or for any single country. Rather it has been to show the enormous variety of responses to diversity, and to underline the wide range of choices that citizens and leaders have before them. Those choices

will be unique to their circumstances. But they will be enriched by an awareness of the available palette, and by coming to a fuller understanding of the choices that others have made, and their experience of successes and failures.

Finally, to repeat, successful management of diversity must respond both to those groups making claims on the majority and to majority concerns. They must embrace not only the value of peace and stability—critical as they are. They must also embrace democracy, equality, and the capacity for effective government in a complex world.