

RESEARCH ARTICLE

German Lessons: Comparative Constitutionalism, States' Rights, and Federalist Imaginaries in Interwar India

Sarath Pillai 

Postdoctoral Research Fellow, Center for the Advanced Study of India, University of Pennsylvania, Philadelphia, PA, USA
Email: pillais@sas.upenn.edu

Abstract

This article reveals the hold that German history and constitutionalism had on Indian federalists in the interwar period. A range of federalists from Indian princely states and British provinces, eager to see India become a federation rather than a unitary state fashioned on the English model, looked to Imperial Germany for constitutional lessons. They saw in German history and constitutionalism a federal solution to the so-called “Indian problem,” wherein the rights of the states would be primary over those of individuals or groups. This German-inspired federal tradition, I argue, departed not only from political pluralism and association-based federalism, but also from the nationalist vision of placing individual rights over state rights. This article presents an alternative genealogy of comparative constitutional thought in India, and examines a post-national worldview that sidestepped the nation-states. By bringing a comparative approach to bear on political and constitutional histories, it escapes the national insularity that often characterizes such histories in colonial India, and places them in the comparative and global context of the interwar circulation of federalist ideas. German-inspired federal ideas of the period offer a counterpoint to corraling futuristic visions of India, and its founding, on the twin axes of anticolonial nationalism and popular sovereignty to the exclusion of state-centric ideas articulated by the princely states.

Keywords: Imperial Germany; Indian Princely States; federalism; comparative constitutionalism; comparative history; sovereignty; states' rights

When Frederik Whyte wrote *India, A Federation?* in 1926, his main purpose was to compare and contrast seven of the world's leading federal constitutions. Three were within the empire—Australia, Canada, and South Africa—and the other four were

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the Swiss, Imperial German, Republican German, and U.S. constitutions.¹ As the first president of the imperial legislative assembly in Delhi and the author of one of the earliest and most widely cited books on the idea of the All-India Federation, Whyte took on the task of making available a summary of federal constitutions in the world in the hope that Indian “people as a whole” could make informed decisions about their political future.² He sought to demonstrate the “complexity” and “magnitude of the problems” that makers of federal constitutions elsewhere had dealt with, writing, “That there are lessons to be learned from other countries is obvious.”³ Examining the history and constitutions of other nations in search of lessons and models was a feature of interwar constitutionalism in India. This comparative effervescence in Indian constitutional thought had a specific relationship with the general perception that India’s future constitution had to be federal in nature. In the 1920s, as part of the debates surrounding the revision of the Government of India Act 1919, there emerged a general sentiment among Indians in favor of federalism as the solution to the so called “Indian problem,” that of uniting a jurisdictionally and culturally diverse nation.

In the interwar period, there was increasing realization across the board that there should be one constitution for all of India, both British provinces and princely states. If India was to be granted self-government or Dominion status, then it had to be united into a single entity. Since the 1920s, Indian princes, liberals, and minority communities like Muslims had argued that this could be achieved only through federalism rather than a Westminster-type of parliamentary state. Very little work on the grassroots history of federalism has addressed it as an all-pervasive idea that was debated and accepted by different groups of Indians throughout the length and breadth of the country. Most accounts have focused on federalism as an imperial imposition meant to restrain the Indian national movement.⁴ A new batch of historians has viewed the problem of Indian federation as a problem of divisible sovereignty and alternate, non-nation-state futures.⁵ Federalism was, after all, a debate about the nature of postcolonial sovereignty and how it would be parceled out among different groups. This debate was not merely a contest between colonial administrators and Indian nationalists; it was a project that addressed India’s future and sovereignty, in which various groups like the princely states, liberals, and minorities played important roles.

¹Frederick Whyte, *India, a Federation? Being a Survey of the Principal Federal Constitutions of the World, with Special Reference to the Relations of the Central to the Local Governments in India* (Simla: Government of India Press, 1926).

²“Sir Frederick Whyte’s ‘India: A Federation’—A Symposium,” *Hindustan Review* 49, 288 (July 1926): 320–29, <http://www.southasiarchive.com/Content/sarf.120070/228662/016> (accessed 23 Nov. 2021).

³Whyte, *India, a Federation?*, 3.

⁴R. J. Moore, *The Crisis of Indian Unity, 1917–1940* (Oxford: Clarendon Press, 1974); Carl Bridge, *Holding India to the Empire: The British Conservative Party and the 1935 Constitution* (New Delhi: Sterling Publishers, 1986); Ian Copland, *The Princes of India in the Endgame of Empire 1917–1947* (New York: Cambridge University Press, 1997); Barbara Ramusack, *The Indian Princes and Their States* (New York: Cambridge University Press, 2004); Margrit Pernau, *The Passing of Patrimonialism: Politics and Political Culture in Hyderabad, 1911–1948* (New Delhi: Manohar, 2000).

⁵Sarath Pillai, “Fragmenting the Nation: Divisible Sovereignty and Travancore’s Quest for Federal Independence,” *Law and History Review* 34, 3 (2016): 743–82; Rama Mantena, “Anticolonialism and Federation in Colonial India,” *Ab Imperio* 2018, 3 (2018): 36–62; Sunil Purushotham, “Federating the Raj: Hyderabad, Sovereign Kingship, and Partition,” *Modern Asian Studies* 54, 1 (2020): 157–98.

Yet, this new resurgence of federal imageries in history writing stops short of examining the comparative and global aspects of the Indian federal project. This is partly because most of these accounts still view the problem of Indian federation mainly through the eyes of nationalists, especially Jawaharlal Nehru and Sardar Patel, who were committed to a unitary model. As a result, we are led to view the idea of Indian federation just as the Indian anticolonial nationalist did: as a project to sustain the empire in a ramshackle confederacy of hundreds of princely states based on the plurality of states and sovereignties. I will show how the models Indian federalists advanced were far more sophisticated, with fewer federal units, albeit with more powers, resembling those of the federal units in Imperial Germany or the United States. The Indian federalists saw territorially defined states as primary markers of sovereignty. Only by comparative analysis, and especially by incorporating the presence of German federal ideas in interwar India, can we ascertain the centrality of sovereignty, states' rights, and provincial autonomy in the writings of Indian federalists.

Comparative thinking about India's future was a generalized phenomenon, with academics, writers, and officials in various regional towns and vernacular centers assuming roles just as important as those of their counterparts in London or Delhi. They were acutely aware of the global context of constitutional changes in interwar Europe, wherein the collapse of empires and monarchies—the Romanovs, the Habsburgs, and the Hohenzollerns—was followed by a series of short-lived democratic constitutional experiments.⁶ While the major imperial formations in Europe suffered an irreparable blow from the First World War, the British Empire faced no impending challenge. The persistence of that empire, with its legal pluralism, made comparative constitutional thinking in interwar India especially salient. The imperial context of multiple sovereignties—the absence of a single monarch or sovereign—formed a fertile ground for constitutional borrowings and transnational lessons. The Manichean nature of the empire, divided into directly and indirectly ruled territories, contributed to a plurality of actors who thought differently and comparatively about India's constitutional future. We can bring imperial pluralism to bear on constitutional debates to move past the national insularity that often characterizes the constitutional histories in India and place these histories in a comparative context.

This article focuses on the comparative ideas of a group of Indian officials, academics, and writers from provincial towns, princely states, and vernacular centers, who argued that the history and constitution of imperial Germany held the key to unlocking India's constitutional future. With remarkable clarity, they encapsulated India's history as a struggle between “centrifugal” and “centripetal” forces—the need to balance the central power with local powers. For K. M. Panikkar and K. N. Haksar, two preeminent princely state officials and joint authors of *Federal India* (1930), the “equilibrium” between these forces was to be the hallmark of the Indian constitution, and they saw imperial Germany as the paradigmatic model for effecting this balance of power. C. S. Nair, a Malayali writer in the maritime state of Travancore, compared federalism to matriarchy (the prevailing social institution

⁶David Runciman, *The Confidence Trap: A History of Democracy in Crisis from World War I to the Present* (Princeton: Princeton University Press, 2014); A. Krishnaswami, *The New Indian Constitution* (London: Williams & Norgate, 1933).

among various communities in that state) and argued that if one took recourse to “logic” (*yukti*) instead of “history” (*caritram*), then the German constitutional experience provided object lessons for Indians working to fashion their future. These comparatists looked up to both dead (imperial) and living (republican) German constitutions in search of a federal constitution for India. The underappreciated role of Germany in India’s constitutional imaginings offers a fresh perspective on the ideological impulses of Indian federalism and its global, comparative context. The German-inspired federal tradition, I argue, departed not only from political pluralism or association-based federalism, but also from the nationalist vision of placing the rights of individuals over the right of the state. These comparative ideas upset the teleology of both the nation-state and its constitutionalism, the easy conflation between constitutionalism and consensual nationalism.⁷ German-inspired federal ideas present a counterpoint to futuristic visions of India that corral its founding between the twin axes of anticolonial nationalism and popular sovereignty and exclude state-centric ideas articulated by the princely states.

Much of the existing scholarship on comparative constitutionalism in South Asia is focused on the drafting of free India’s constitution and the period thereafter.⁸ This article takes a different tack by showing the colonial and federal provenance of the birth of comparative constitutionalism in South Asia. During the interwar period, a newfound interest emerged in looking at other constitutions to aid in fashioning India’s unknown future. Those imagining a federal future found particular value in engaging in what Kim Scheppele calls “constitutional ethnography,” “an attempt to translate concepts across sites, [and] times.” It is a way of comparing and analyzing two different units with an underlying “logic” in order to come up with a set of “constitutional repertoires” with which to further understand constitutions.⁹ Indian federalists studied other federal constitutions to help them build their own constitutional repertoires. By looking beyond England they contradicted the Indian nationalists (especially leaders of the Indian National Congress), who expected India to become a unitary, parliamentary state along the lines of Westminster.

Not only did comparative constitutionalism precede the debates surrounding the drafting of free India’s constitution during 1946–1950,¹⁰ but the pioneers of this process were federalists and conservatives, who found British constitutionalism insufficient for India. In particular, princes and their advisors, federally minded Muslims, and some British officials saw imperial Germany as a paradigmatic model for India’s future. Provincial independence and the differential relationship between units and center (i.e., federal units did not need to be uniform) in the German case greatly appealed to the princes and certain Muslims. The Indian federalists saw

⁷Arvind Elangovan, “The Making of the Indian Constitution: A Case for a Non-Nationalist Approach,” *History Compass* 12, 1 (2014): 1–10.

⁸For example, see Sunil Khilnani, Vikram Raghavan, and Arun K. Thiruvengadam, eds., *Comparative Constitutionalism in South Asia* (Delhi: Oxford University Press, 2015).

⁹Kim Lane Scheppele, “Constitutional Ethnography: An Introduction,” *Law & Society Review* 38, 3 (2004): 389–406.

¹⁰For examples of comparative constitutionalism in the 1940s, see Pattabhi Sitaramayya, *Constitutions of the World* (Lahore: Indian Book, 1946); and B. N. Rau, *Constitutional Precedents* (New Delhi: Government of India Press, 1947).

constitution-making as a necessarily comparative enterprise rooted in a deep familiarity with one's own history and histories of other nations and their trials and tribulations. K. M. Panikkar's and K. N. Haksar's argument that "the history of German Empire and of the Confederation of Germany is full of valuable lessons for those interested in the future of India" occasioned their evaluation of Germany's long past.¹¹ By shifting the gaze from England to continental Europe, historians and legal scholars can recuperate a different constitutional and political culture from the interwar period, where neither democracy nor parliamentarism were uncritically accepted.

The place of Germany in Indian federal imaginings offers us avenues along which to rewrite the history of Indo-German entanglements and conceptualize an early iteration of comparative history and constitutionalism that transcends the naturalness of nation-states as objects of comparison. Let me explain. Thus far, the history of Indo-German entanglement has been told through the optic of anticolonial networks, leaving out what may be called "pro-imperial networks." For example, Kris Manjapra has offered us a history of Indo-German entanglements, mainly between 1880–1945, wherein many Indians and Germans found a common purpose in challenging Anglocentrism. In Manjapra, the concept of entanglement is practical and utilitarian: "Entanglements occur when groups, alien from each other in many other ways, begin to need each other like crowbars or like shovels to break apart or to dig up problems of the most pressing concern for themselves."¹² This is also in line with what Eliga Gould considers to be the main features of entangled histories: "mutual influencing" and "reciprocal or asymmetric perceptions."¹³ What I proffer here is a different history of Indo-German entanglement, wherein the fascination that Indian princes, their advisors, and other federalists had with German constitutionalism often entailed no major challenge to the empire or Anglocentrism. After all, certain British officials themselves favored the German model for India.

The Indian federalists that we encounter here are a motley group drawn from different states and regions, with no unifying agenda except their strong opposition to parliamentary democracy and a desire to preserve state sovereignty within a federation. Rather than focusing on the associational or group politics of the princely states—as a generation of previous scholars successfully did—I will concentrate on federal ideas. Federation as a concept meant different things to different princely states. For instance, maritime states like Travancore or larger states like Hyderabad or Kashmir had specific concerns about a federation that were scarcely shared by middling states. The gulf between those states that could be deemed a federal unit in their own right and others persisted throughout the federal debates. Yet the German-inspired federal ideas, especially that of the differential relationship between the center and units, appealed to the princely states as a whole. It is this generality, rather than the intractable divisions among the states, that accounts for their affinity for German ideas.

¹¹K. N. Haksar and K. M. Panikkar, *Federal India* (London: Martin Hopkinson, 1930), 12.

¹²Kris Manjapra, *Age of Entanglement: German and Indian Intellectuals across Empire* (Cambridge: Harvard University Press, 2014), 6. Legal and constitutional entanglements are not the focus of this book.

¹³Eliga H. Gould, "Entangled Histories, Entangled Worlds: The English-Speaking Atlantic as a Spanish Periphery," *American Historical Review* 112, 3 (2007): 764–86.

Anticolonial internationalism and communism were coeval with the pro-imperial and statist entanglements that we see in Indian federalist writings. In the 1920s, Berlin was already a major center of anticolonial internationalism, with three presidents of the Indian National Congress and four hundred Indians visiting the city. Berlin was the city chosen for the first League Against Imperialism Conference held in 1927, but the Weimar government refused to offer a venue and so the conference moved to Brussels.¹⁴ Much like these international networks and ecumenic communities, the entanglements that this article reveals are akin to “thought zones” and hermeneutic communities that sidestepped the logic and teleology of the nation-state.¹⁵ Manu Goswami has argued that future-oriented political imaginaries propelled by international movement concepts like socialism and communism have been sidelined in history writing in favor of nationalist imageries that appeared more experiential and less utopian.¹⁶ One common thread that runs through this literature is anticolonialism and the desire to become unshackled from the nation-state. This article offers another set of entanglements that were pro-imperial, legal, and statist, which were neither anticolonial nor national but federal in nature.

German-centric constitutional imaginations in interwar India prefigure an early comparative history that consciously escaped references to nation-states. Those who imagined futures did so comparatively in ways that prefigure certain modern notions prevalent among comparatists today: their approaches were non-hierarchical, post-national, and asymmetrical. In these accounts, India and Germany are not in a hierarchical relationship. They are not compared for similarities in culture or geography but for the symmetry of political and constitutional questions debated in both countries, albeit at different times. Though the comparative flourishes in Indian writings on constitutionalism and federalism fit no single worldview or theory of comparativism, they point us toward a global history of ideas and constitutionalism in interwar India.¹⁷ What we find here is a vibrant sphere of legal and political ideas about federation which various Indian actors borrowed, appropriated, and reinvented, suggesting a certain “globalization” of federal ideas. Taking a cue from Samuel Moyn, I consider the traffic of Indian constitutional ideas as it was rooted in “situated interpretation and appropriation,” wherein historical actors made deliberate choices in selecting one model over another as suitable to their “political spaces” and historical trajectories.¹⁸ This “comparison and competition of potentially global concepts” that Moyn finds indispensable for global concept history is instructive in thinking about why the Indian federalists found certain federal ideas and models more appealing than others.

¹⁴Vijay Prashad, *The Darker Nations: A People's History of the Third World* (New York: New Press, 2007).

¹⁵Sugata Bose and Kris Manjappa, *Cosmopolitan Thought Zones: South Asia and the Global Circulation of Ideas* (New York: Palgrave Macmillan, 2010).

¹⁶Manu Goswami, “Imaginary Futures and Colonial Internationalisms,” *American Historical Review* 117, 5 (2012):1461–85.

¹⁷Justin Collings, “What Should Comparative Constitutional History Compare,” *University of Illinois Law Review* 2 (2017): 475–96.

¹⁸Samuel Moyn, “On the Nonglobalization of Ideas,” in Samuel Moyn and Andrew Sartori, eds., *Global Intellectual History* (New York: Columbia University Press, 2013), 187–204, at 201.

Discovering India's "Federal Fabric"

Returning to 1926, Frederick Whyte argued that in England institutions mattered less than the people who ran them. The political temperament of the English people was the *sine qua non* of their political system. For an India looking to build new political institutions, England would have less to offer since their people were not the same: "Tangible institutions are a necessary part of a Federal Constitution, and as Britain offers no great variety of such political institutions to the scrutiny of the student, they must be sought for the most part in other countries."¹⁹ He thought that "a closer study of other constitutions might provide palatable solutions" for India.²⁰ Whyte was not an anti-imperialist; rather, his claim was that British rule over India should not lead to the conclusion that the English political system was the one best suited for India. This pushback against uncritical acceptance of the English system for India marked the British conservative approach to the constitutional debates in interwar India.

In August 1928, C. P. Ramaswamy Aiyar, the future prime minister of Travancore and a constitutional lawyer par excellence, articulated a conception of federal India in a speech in Mysore titled "Federal Idea." He was one of the earliest and most forceful proponents of an all-India federation. Like Whyte, C. P. undertook a survey of the world's leading constitutions to formulate his views for a federal India. He extended his analyses to lesser-known constitutions of Brazil, Mexico, and Ireland, and to ancient Greek and medieval Italian history. A running theme in his account is the organization of executive power in the state and its relationship with legislatures. The challenge of ordering executive power independent of the vagaries of representative legislatures had, he wrote, put "parliamentary democracy on its trial."²¹ In the later decades, C. P. would become the preeminent proponent of monarchical sovereignty and executive power fashioned after the American presidency, and he wrote a constitution for Travancore along these lines.²² What strikes one about his early work is his comparative approach and desire to look for models outside the empire. He concluded, "The predilection of modern constitutional writers and publicists has been in favor of the federal model rather than of the unitary Government."²³ He went on to outline a federal framework for India that included provincial autonomy, the vesting of residuary powers, and enumerating legislative powers into federal and state lists. These ideas would morph into constitutional principles in the years that followed.

The search for constitutional models beyond the empire was prevalent among not only politicians and statesmen but also leading Indian academics of the time. Beni Prasad, the first chair of the newly founded political science department at Allahabad University and a well-known expert on Indian political thought, in a book-length study of the Indian problem made a case for looking beyond English constitutionalism. He averred: "There is one strong historical reason why the new Indian constitution should take note of political principles and worldwide political experience. The progress of the Indian constitution, as distinct from administrative routine, has largely followed the English way with a few side-glances at Dominion

¹⁹Whyte, *India, a Federation?*, 3.

²⁰*Ibid.*, 4.

²¹C. P. Ramaswamy Aiyar, *Federal Idea*, The Sri Krishna Rajendra Silver Jubilee University Lecture, Mysore, 8 Aug. 1928.

²²Pillai, "Fragmenting the Nation."

²³Aiyar, *Federal Idea*.

practices. *The rest of the world hardly entered into the calculations of those who were directly or indirectly responsible for the formulation of Indian constitutional projects* (my emphasis).²⁴

For Prasad, “a comparative study of constitutions” was indispensable for the successful drafting of a nation’s own. Quoting Woodrow Wilson, he argued that the work of a convention was one of selection and not creation, and suggested that Americans, Irish, Japanese, and Europeans had borrowed their constitutional ideals from foreign places. Like Whyte, Prasad found the English model inadequate due to India’s “different psychological setting and historical background.”²⁵ For him, the fact that in the aftermath of World War I nations all over the world had been revising their constitutions lent urgency and unity of purpose to the impending reforms in India.

A striking feature of Prasad’s account is his attempt to situate federalism as an Indian ideal. He thought that federal ideas had existed in India for centuries. Even as federalism in its “regular, clear-cut form” is a “modern contrivance,” its “essential elements” were to be found in the Indian past. Ancient Indian empires of Mauryas, Guptas, Vardhanas, and Rashtrakutas contained “federal fabrics” that permitted “local autonomy.”²⁶ Even as there were “centripetal forces” during the Muslim rule, local initiative and independence continued to thrive. This long history of federalism in India had ended with the advent of British rule. “It was reserved for the British administration to give the *coup de grace* to all the elements of federalism within British India, to bring the unifying forces to a climax, and establish a centralized, uniform government.”²⁷ The long British rule that deprived provinces of sovereignty in service of a unitary state posed considerable challenges in devising a federal constitution. For, unlike the princely states, or federating units in the United States, Germany, Switzerland, or Canada, the Indian provinces had no *de jure* sovereignty.²⁸ Thus restoring the independence of the provinces was a prerequisite for federating India. Briefly stated, Prasad argued that federalism was “the most desirable form of political organization” for India for it not only met democratic and administrative needs but was also in tandem with the “age-long trend of Indian history.”²⁹ This conception of federalism is in marked tension with views dominant in Indian historiography that consider federalism a British imposition.³⁰ Prasad took special care not to discuss the question of the princely states, claiming that it was a problem susceptible to political, as opposed to constitutional, resolution. Yet, he argued that a federalism that respected the sovereignty and treaty rights of the states was the solution to the Indian problem. He thought that this “end could be achieved, as it was achieved in somewhat analogous circumstances in pre-war Germany by a federation resting on treaties and a rigid written constitution.”³¹

²⁴Beni Prasad, *A Few Suggestions on the Problem of the Indian Constitution* (Allahabad: Indian Press, 1928). 14.

²⁵Ibid., 15.

²⁶Ibid., 65.

²⁷Ibid.

²⁸Ibid., 69.

²⁹Ibid., 72.

³⁰See note 4.

³¹Prasad, *A Few Suggestions*, 29–30.

Prasad's was not a lonely voice. We find a similar discussion of federalism in Brij Mohan Sharma's *Indian Federation* (1932), originally written as a Ph.D. thesis in political science at Lucknow University.³² Sharma's many years of intellectual labor stood close to Prasad's in his approach to history. The ancient empires were far from being unitary and respected local independence in return for allegiance to the emperor. In Sharma's presentation, the decline of the Hindu empires (mainly due to the collapse of leadership) led to Muslim rule, centralization, and a subsequent rise of centrifugal forces, which led in turn to the advent of British rule. This is the same story Prasad depicted in his book, but Sharma went a step further and argued that the ancient Mauryan Empire was comparable with British India in its relationship with the princely states and in the co-existence of democracy and monarchy.³³ This accommodative capacity of federalism would help safeguard India's political diversity. The past aside, Sharma, too, was unambiguous in asserting that Indians "have to be guided by the experience of other constitutions" in conceiving a federalism suitable to their circumstances.³⁴ References to the leading federal constitutions, especially the American and German ones, are found throughout his book.

These academic writings in the interwar period were a part of the resurgent interest in India's past, especially its republican and democratic past. Historians like K. P. Jayaswal and Hem Chandra Raychaudhuri found historical evidence for a republican system among the Licchavis to argue that a republican system of government was not alien to Indians aspiring for self-government. These investigations into India's past lent a stronger ground to those federalists who opposed parliamentary democracy as not representative enough.³⁵ For our purposes, what Prasad's and Sharma's books demonstrate is the nascent character of comparative constitutionalism among Indian academics in the 1930s in the context of imagining a future constitution for India. The exhortative and didactic nature of their works suggests that with comparative constitutionalism they were entering a new field unknown to most Indians. While these anodyne academic discussions of federalism did not necessarily advocate for one model over another (and often left readers to choose), writings by politicians and statesmen approached the federal question quite differently, albeit still comparatively. I now turn to one such paradigmatic treatment of federalism to illustrate how, with the impulse toward federalism, gazes shifted not only away from English political systems, but decisively toward the history and constitutionalism of imperial Germany.

Germany and the Ends of Federalism

When K. N. Haksar, a veteran statesman from Gwalior, and K. M. Panikkar, an Oxford-educated official from Travancore serving the Chamber of Princes, joined forces to write *Federal India* in 1930, little did they know that their arguments for and against federalism would mark the rest of India's colonial history.³⁶ *Federal India*,

³²Brij Mohan Sharma, *The Indian Federation* (Lucknow: Upper India Publishing House, 1932).

³³*Ibid.*, 130.

³⁴*Ibid.*, 291.

³⁵Tejas Parasher, "Federalism, Representation, and Direct Democracy in 1920s India," *Modern Intellectual History* 19, 2 (2022): 444–72.

³⁶Haksar and Panikkar, *Federal India*.

coming out a few months before the first Round Table Conference met in London in November 1930, was the first major work to deal with the federal question from the perspective of the princely states.³⁷ If Frederick Whyte considered federation through the eyes of the British provinces, Haksar and Panikkar argued that the “rights of the states are a governing factor in the solution of the Indian problem.”³⁸ With enviable clarity, they maintained that the “organic union” of the princely states with the British provinces “*can only be on a federal basis*” (their italics).³⁹

Haksar and Panikkar undertook a survey of the federal constitutions of the United States, Germany, Switzerland, Australia, Canada, and the Soviet Union to “select” an ideal model for India. As proponents of states’ rights, they were opinionated on each of these constitutions, and offered nuanced yet partial readings of them to buttress their argument that the future Indian federation had to respect and safeguard states’ rights. The U.S. Constitution came up short because its states “were artificial and had not been strengthened by centuries of local feeling and loyalty to particular dynasties.”⁴⁰ The Australian constitution, too, was wanting because of the domineering control the lower house had on the federal executive (or its “parliamentary responsibility”) to the exclusion of the interests of the federated states.⁴¹ Canada’s was a unitary constitution, and the Swiss model was better suited to small countries. Both the U.S. and Soviet constitutions were especially lacking due to similarities between their constituent states, the former’s states being uniformly committed to republicanism and the latter’s to socialist republicanism.⁴² For Haksar and Panikkar, monarchy and democracy could not co-exist in a federation that upheld such parity between its units.

The authors of *Federal India* presented a snapshot view of Germany’s history—from the Holy Roman Empire and through the German Empire to the Weimar Republic—to argue that Germany provided the most suitable model for future India. They thought German history offered an object lesson in managing centrifugal and centripetal forces. Characterization of the Indian problem as a search for harmony between centrifugal and centripetal forces is an important feature of the federalist discourses in interwar India.⁴³ For these writers, these dueling forces also defined the entirety of India’s past. They argued in the German imperial tradition that the Indian constitution should have “two fundamental attributes”: first, a “central authority” with sufficient power to hold federal units and an ability to engender “national loyalty,” and second, “autonomy of the subordinate administrations.”⁴⁴ They thought that an “equilibrium” between the powers of the center and units “alone would ensure the permanence of the constitution.” They went on to suggest,

³⁷The British government convened the Round Table Conference (1930–1932) in London with representatives from all shades of opinion in India to arrive at a constitutional settlement for India. It was the first widely representative body drawn from British provinces and princely states to debate the question of whether India’s future constitution should be unitary or federal. The conference was crucial in India’s constitutional evolution as the princely states became indispensable to a constitutional settlement after that.

³⁸*Ibid.*, 18.

³⁹*Ibid.*, ix.

⁴⁰*Ibid.*, 56.

⁴¹*Ibid.*, 74.

⁴²*Ibid.*, 84.

⁴³For example, see Sharma, *The Indian Federation*; and K. V. Punnaiah, *India as a Federation* (Madras: B. G. Paul, 1936).

⁴⁴*Ibid.*, 5.

“Nowhere else was the reconciliation between the claims of local sovereignty and the demands of the central government so satisfactorily effected as in the German Reich founded by Bismarck.”⁴⁵ The claims of the German princes were accommodated without “weakening the central authority of the Second Reich.” And yet, the Second Reich also “recognized local sovereignties by leaving the member-states intact with their own institutions, councils, and governments,” by transferring only enumerated powers to the central government.⁴⁶ They pointed to the persistence of states in Germany to argue that, even when the empire gave way to the German Republic in 1918, German states were not abolished. “Bavarian and Saxon particularism seems to be as strong today as it was in the days of the German Empire.”⁴⁷

The text of the German imperial constitution, enacted on 16 April 1871, was reproduced as an appendix in *Federal India*, revealing its prime place in the authors’ federal imagination. Haksar and Panikkar considered states as the core of constitutions, and balancing local autonomy with central power was to be the main function of a constitution. For them, this constitutional ideology was best instantiated in imperial Germany. “The Constitution of Imperial Germany presents more analogies to the student of Indian politics than does that of the United States of America.”⁴⁸ The union of American states was a “union of equal states,” whereas the union of Germany was constituted by small states with differential claims to sovereignty. Prussia, as the dominant power, negotiated treaties with each of the German states independently, and the safeguards granted to these states differed from one to another. Southern states like Bavaria, Baden, and Württemberg had more powers; not only did they send more representatives to the Bundesrat (Federal Council), but article 4 of the imperial constitution, which enumerated federal powers, also made special guarantees to their sovereignty in subjects like railways, and post and telegraph.⁴⁹ The Bundesrat, where Prussia and southern states held majority votes, had significant powers including to veto legislation that affected their sovereignty. For Haksar and Panikkar, the Indian states and the powerful German states were equally sovereign, and thus the Indian states deserved the same constitutional guarantees. This line of federal constitutional theory premised on the sovereignty of the (princely) states could have found no better model than that of imperial Germany.

The German federal theory shaped the subsequent phase of constitutional debates about federation in the aftermath of the Government of India Act of 1935. All the federal plans proposed by the princely states in this phase would revert to this basic blueprint of a federal India based on the German imperial constitution. In the 1930s and 1940s, almost all princely states insisted that some subjects be exempt from the enumerated powers of the federal government. For instance, a powerful maritime state like Travancore would insist that it retain authority over federal subjects like Salt, Post, Telegraph, Customs, and Excise (import and export duties), much as some southern German states were exempted from the enumerated powers of the federal authority in imperial Germany.

⁴⁵Ibid., 16–17.

⁴⁶Ibid.

⁴⁷Ibid., 22.

⁴⁸Ibid., 56.

⁴⁹Haksar and Panikkar, *Federal India*; Edwin H. Zeydel, ed., *Constitutions of the German Empire and German States* (Washington, D.C.: Government Printing Office, 1919).

Haksar and Panikkar, like many federalists, thought that not only was a unitary, centralized government unattainable and unsuitable for India, but that it went against the “regional particularism” that characterized India and, if history was any indication, should be avoided. For them, federalism and parliamentary government were “essentially incompatible [*sic*].” The general turn toward federal ideas in the interwar period must be situated within the twin crises of democracy and parliamentarism, which were more visible in Europe than in a colony like India, but were no less acute in the latter. The idea that federalism means “sovereignty in the constituent states,” as opposed to sovereignty in the people, set apart the Indian federalist ideas shaped in the mold of Germany.⁵⁰ The reasons imperial Germany appealed to Indian federalists were not limited to the constitutional theory of states’ rights; German imperial constitutionalism was also a good example of a mixed constitution, wherein monarchy co-existed with representative wings of the government (Reichstag). In the interwar period, progressive Indian states like Bikaner, Cochin, Travancore, and Mysore were engaged in constitutional reforms to find a middle ground between monarchy and democracy. Rather than leaving the central government’s stability to the confidence of a lower house as in parliamentary government, the German hybrid model allowed for greater stability by sharing the executive’s powers with the state council (Bundesrat). All these constitutional principles greatly appealed to the princes and Muslims who wanted to safeguard their autonomy against majoritarian and democratic impulses.

In the 1930s the German imperial constitution, despite its virtues, was not a living constitution. For Panikkar and Haksar, the constitution had stacked more powers in favor of the states, and its demise had been primarily caused by the center’s growing powers and the concomitant diminution of states’ rights. As a result, the tension between central and local powers persisted, which led to the constitution’s abolition in favor of a new one that stacked powers more in favor of the central authority. They thought that this cyclical play of local and central powers in India could be ended if Indians learned from the German example and aimed for a perfect balance between central and local powers. They assigned a more crucial role to the national judiciary and national army than was seen in imperial Germany. Two institutions they considered important for a future India were an independent Supreme Court with powers to decide constitutional issues concerning the states, and a national army (instead of segmented armies under each state’s control) that could foster the national unity and loyalty essential for a stable constitution.⁵¹ The idea that a Supreme Court should be the guardian of states’ rights thus runs parallel to the idea of a Supreme Court as the guardian of fundamental (individual) rights.⁵² This again points to an alternate trajectory of constitutionalism that favored states’ over individual’s rights, as the central edifice of new India.

The Aga Khan, the spiritual and temporal leader of the Ismailis and a founder of the All-India Muslim League, had been a vocal advocate of the German model for India as early as 1918. In his famous book *India in Transition*, he recalled his

⁵⁰Haksar and Panikkar, *Federal India*, 31.

⁵¹*Ibid.*, 18–20.

⁵²The Nehru Report, too, considered “engagements, treaties, and sanads,” or matters relating to the Indian states in general, as constituting the original jurisdiction of the future Supreme Court of India. See All Parties Conference, *The Nehru Report: An Anti-Separatist Manifesto* (New Delhi: Michiko & Panjathan, repr. 1975 [1928]).

conversations with Bismarck's son Count Herbert and the latter's belief that the "organic parliamentary union" as it existed in France or the United Kingdom would have only broken the German Empire because of its size.⁵³ Given India's geographical size and diversity, Aga Khan argued, the parliamentary model was likewise unsuitable there. Balkanization did not emanate from granting regional autonomy but from "over-centralisation and the enforcement of an unnatural uniformity." Thus, he argued, "The problem of free India within the British Empire can only be solved by federalism."⁵⁴ The Aga Khan articulated these ideas even more stridently ten years later as a response to *The Nehru Report* of 1928, which advocated for a unitary state.⁵⁵ The similarity between the views of the Aga Khan and Haksar and Panikkar shows how certain Muslim leaders, princes, and their advisors held similar views on India's future constitution. For all three, the main strength of the German imperial constitution lay in the ability of each federating unit to have a different relationship with the federal center. The special position of Prussia and Bavaria in the German constitution (as the Aga Khan argued in his 1928 scheme) provided a model for thinking about the rights of both the princely states and Muslim-dominated provinces within an Indian federation that would be dominated by the Hindus or the Congress Party.

There were various other Muslim visions of federation. Muslim leaders like Muhammad Iqbal and Sayyid Abdul Latif argued that a solution to the communal problem lay in granting Muslims homelands in the provinces where they were a numerical majority. For Iqbal, "a unitary form of government was [*sic*] unthinkable in a self-governing India," and India's only hope was a "true federation" that respected the distinct character of the Muslims and left the residuary powers in the provinces.⁵⁶ Latif, on the other hand, sought to give a constitutional shape to the Lahore Resolution of 1940 that demanded Pakistan. He imagined India being divided into Hindu- and Muslim-majority cultural zones wherever possible, with the rest made up of linguistic provinces governed by a common center where both communities held equal power.⁵⁷ Latif's plan was geared toward a united India and clashed with M. A. Jinnah's idea of "Pakistan in isolation," or the so-called "two-nation theory." Shafaat Ahmad Khan, a well-known Muslim politician and academic, assigned a place of prime importance to German theories of federation in his commentaries on India's future constitution. He expatiated the arguments of German theorists like Von Seydel, Jellinek, and Gierke to show that federalism brought to the fore the question of state and sovereignty. Khan argued that the only solution to the Indian problem lay in provincial independence with a strong center.⁵⁸ The fascinating worlds of Muslim federal thought warrant their own study, but suffice it to say here that all of these disparate Muslim visions of federation stood closer to the German model, wherein federal units invested with residuary powers could have different relationships with the center.

⁵³ Aga Khan, *India in Transition: A Study in Political Evolution* (Bombay: Bennett Coleman & Co., 1918), 34.

⁵⁴ *Ibid.*, 40.

⁵⁵ H. H. The Aga Khan, "A Constitution for India." *Times*, 12 Oct. 1928, 17; H. H. The Aga Khan, "A Constitution for India," *Times*, 13 Oct. 1928, 13.

⁵⁶ Muhammad Iqbal, *Speeches, Writings, and Statements of Iqbal* (Lahore: Iqbal Academy, 1977), 13.

⁵⁷ Sayyid Abdul Latif and Nazir Yar Jung, eds., *The Pakistan Issue* (Delhi: Anmol Publications, 1985 [repr.]), vii–xvii.

⁵⁸ Shafaat Ahmad Khan, *The New Constitution and After* (Madras: University of Madras, 1941).

Why did German imperial constitutionalism so appeal to these Indian federalists? The Germans had a tradition of thinking about states as the loci of sovereignty in contradistinction to the French and the Americans, who saw sovereignty as resting with the people. While the French Revolution established the popular basis of sovereignty, the American Revolution fell short of that goal. In the United States, the people were established as the source of sovereignty only decades later by the Civil War. In Germany, debates over the source of sovereignty raged on for more than a century, producing fascinating corpora of jurisprudence relating to sovereignty and federalism. Dieter Grimm's writings offer English readers a modern account of the texture and nuance of this body of scholarship.⁵⁹ In a confederation formed out of the voluntary association of states, sovereignty was presumed to reside in those states. However, with the demand for national unity, which "meant a nation-state," confederations were to give way to a national, federal state that possessed sovereignty independent of the units.⁶⁰

How was one to arrive at this compromise given that the states were monarchies and their cooperation, rather than extinction, was essential to founding a national state? Grimm argues that this dilemma—having a sovereign federal state existing alongside sovereign constituent states—explains "the central importance of the sovereignty question in the process of founding new Germany." "Everything depended on the solution of this question."⁶¹ It engaged the attention of many German scholars of the time, ranging from Georg Waitz, who suggested that both monarchies/constituent states and the federal state should have independent, separate sovereignties; to Max Seydel, who thought that sovereignty could not be so divided since it would lead to two states controlling the same area; to Georg Jellinek, who considered sovereignty a characteristic of states that was not diminished by self-imposed limitations. Jellinek's argument that sovereignty was not diminished by power-sharing between the center and units was refreshingly new for the time.⁶² The rich German scholarship on the sovereignty question need not detain us here except to say that this question was later given a new perspective in Weimar Germany by Carl Schmitt through his argument that, in a federation, the question of sovereignty—how to federate states without extinguishing their sovereignty—is only "evaded" and never resolved.⁶³

Even as Indian federalists looked up to Germany in the interwar period, Germans themselves were looking for lessons from other countries, especially England and France, while drafting the Weimar Constitution. Max Weber and Hugo Preuss considered English parliamentarism to be the "true" form of parliamentarism, but finally chose to have a mixed constitution. A majority of Germans in 1918–1919 was opposed to parliamentarism and democracy. The main opposition to parliamentarism came from the monarchists or sympathizers of a Kaiser Reich. Thomas Mann articulated this sentiment: "I want the monarchy,

⁵⁹Dieter Grimm, *Sovereignty: The Origin and Future of a Political and Legal Concept*, Belinda Cooper, trans. (New York: Columbia University Press, 2015).

⁶⁰Dieter Grimm, "Was the German Empire a Sovereign State?" in Sven Oliver Müller and Cornelius Torp, eds., *Imperial Germany Revisited: Continuing Debates and New Perspectives* (New York: Berghahn Books, 2011), 51–65, at 53.

⁶¹*Ibid.*, 54.

⁶²*Ibid.*, 57–61.

⁶³Carl Schmitt, *Constitutional Theory*, Jeffrey Seitzer, trans. (Durham: Duke University Press, 2008), 390.

I want a passionately independent government because only it offers protection for freedom in the intellectual as well as the economic sphere.... I do not want this parliamentary and party business that will sour the whole life of the nation with its politics.”⁶⁴ Schmitt’s main critique of parliamentarism was that its core principle, that of “openness and discussion,” had become outdated since political differences could not be reduced to a conflict of opinion.⁶⁵ Indian federalists like Haksar and Panikkar, too, were ardent monarchists who saw parliamentarism as incompatible with monarchism. In particular, they feared that an elected lower house would dominate an indirectly elected or nominated upper house in which states held seats. They thought that India should emulate the compromise imperial Germany had achieved between the interests of states and those of people.

German federal jurisprudence so appealed to the princely states that in 1933 the Chamber of Princes employed two famous German lawyers of the time—Viktor Bruns and Carl Bilfinger—to write a legal opinion on the rights of the Indian states.⁶⁶ They were the first two directors of the Kaiser Wilhelm Institute for Comparative Public Law and International Law in Berlin. Their main burden was to apply the German constitutional principles to the situation of the Indian states. They argued that the Indian federation should seek a fine balance between equality and proportionality like that found in the German imperial constitution.⁶⁷ This meant that every state, by virtue of its sovereignty, would be equal to the others, but their sizes, populations, and rights could vary, as could their representation in the federal council. The prime example was Bavaria, which, as they showed, enjoyed special rights that no other states did, such as to tax beer, which was otherwise a federal subject.⁶⁸ As international lawyers, they applied the maxim of international law that sovereign states, despite their special features, were legally equal.

J. H. Morgan, an eminent lawyer and a professor of constitutional law at the University College London, was a major champion of states’ rights. In an undated opinion, titled “A Note on ‘Sonder-Rechte’ and Their Place in a Federal Constitution,” written around the Round Table Conference in the early 1930s, Morgan gave a snapshot view of the history of states’ rights in Germany to explain the lessons the princes could draw from it.⁶⁹ He argued that the German imperial federation provided the best model for safeguarding the “special rights” of Indian states, and went on to suggest that “the analogies with the situation of British India and the Native States are obvious.” He argued that the Indian states had the same relationship with British India as Bavaria had with the federal state. For him, that the German constitution was never amended between 1879 and 1919 was a testament to Germany’s success in reconciling federalism and the special rights of the states.

⁶⁴Ellen Kennedy, “Introduction: Carl Schmitt’s *Parliamentarism* in Its Historical Context,” in Carl Schmitt, *The Crisis of Parliamentary Democracy*, Ellen Kennedy, trans. (Cambridge: MIT Press, 1988), xxiv.

⁶⁵*Ibid.*, 2.

⁶⁶M-37, *Memorandum Relating to the Accession of the Indian States to the Proposed Federal Union of All-India*, by Viktor Bruns and Carl Bilfinger (Berlin, 1933), Kerala State Archives, Kochi.

⁶⁷*Ibid.*

⁶⁸*Ibid.*

⁶⁹John Sankey Papers, Bodleian Libraries, Oxford, MS. Eng. hist. c. 542. (fol. 51).

The centrality of imperial Germany in interwar federal imaginations, I suggest, allows us to see an alternate trajectory of federalist ideas which did not emanate directly from political pluralism.⁷⁰ With the rise of pluralist theories, conceptions of state and sovereignty began to move away from the “one country, one law” unitarism that characterized A. V. Dicey and his followers. Dicey’s restatement of British constitutionalism in the language of parliamentary sovereignty dominated English legal thought at the turn of the twentieth century.⁷¹ The pluralist theories of Harold Laski and G.D.H. Cole gestured toward political pluralism and federative forms of government in a refreshing departure from Westminster-centric analyses. Laski famously argued that sovereignty was about will and imposing reasonable expectations of obedience on others. According to him, the state was not the only organization that could “secure obedience to all its acts,” and other decentralized institutions like corporations and trade unions had similar authority.⁷² The pluralism of the German *lands*, as articulated by Otto von Gierke, and its influence on political pluralism in England, have been documented.⁷³ Laski’s own student, Sobei Mogi, dealt with this relationship, and Gierke in particular, in a treatise on federation.⁷⁴ Gierke’s political theory rested on groups and associations rather than the individual or the state. All these pluralist traditions taken together point toward the limits of statism and the primacy of associations of individuals within the states. But the German-inspired tradition of federalist ideas in India distinguished itself by considering the states to be above both groups and individuals.

German-inspired federal ideas in India marked a break with federalist imageries based on local self-government that had held sway at the turn of the century. They introduced a new phase of federal debates in which political realism and state sovereignty became dominant concerns. Accounts of federalism that trace it through political pluralism, village republics, and other decentralized associational and democratic forms of politics have greatly contributed to our understanding of federalist ideas in South Asia.⁷⁵ But these strands of federalism ran parallel to the state-centric federalism articulated by the Indian princely states and Muslim leaders. By the 1930s, the village-republic-based federalism in India, which often did not engage with the questions of the princely states or minorities, had for all practical purposes ended, and debates now focused on how to unite princely and British India. Merve Fejzula’s account of the historiography of federalism suggests that mid-twentieth-century African federalists wrangled with conceptions of the state more than we have recognized and that the “debates over federalism” were central to “the

⁷⁰For works on political pluralism, see Paul Q. Hirst, *The Pluralist Theory of the State: Selected Writings of G.D.H. Cole, J. N. Figgis, and H. J. Laski* (New York: Routledge, 1989); and G.D.H. Cole, *Social Theory* (New York: Frederick A. Stokes Co., 1920).

⁷¹A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (London: MacMillan, 1902 [6th ed.]).

⁷²Harold J. Laski, *Studies in the Problem of Sovereignty* (New Haven: Yale University Press, 1917), 270.

⁷³David Runciman, *Pluralism and the Personality of the State* (Cambridge: Cambridge University Press, 1997).

⁷⁴Sobei Mogi, *The Problem of Federalism: A Study in the History of Political Theory* (London: G. Allen & Unwin Ltd., 1931).

⁷⁵Nazmul S. Sultan, “Between the Many and the One: Anticolonial Federalism and Popular Sovereignty,” *Political Theory* 50, 2 (2022): 247–74; Tejas Parasher, “Federalism, Representation, and Direct Democracy in 1920s India,” *Modern Intellectual History* 19, 2 (2022): 444–72.

problem of state.⁷⁶ If we fail to analyze the importance of state-centric federalist ideas in interwar India then we neglect a large repertoire of anti-liberal and anti-individual ideas that played a significant role in imagining alternate paths for India's future.

Vernacular Constitutional Imaginaries and the Move Away from History

Thinking about India's past and future comparatively was a key feature of the turn to world constitutions in the 1930s. History and constitutionalism merge here insofar as a robust understanding of a nation's history, political conditions, and possible futures was important for understanding that nation's constitutional culture and preferences. Yet not everyone who sought models and lessons elsewhere was historically minded. A strong case in point was Vidwan C. S. Nair (d. 1942), a prominent literary critic in Travancore who published a comparative study of world constitutions, written in Malayalam. Nair's writing stands out for not only his use of local idioms and metaphors to explain world constitutions, but also his exhortation to move away from history, which offered "lessons" but not "models." Nair wrote his lengthy essay "Indiyude Bavibaranam" ("India's future constitution"), in 1931 while the first Round Table Conference was still in session. Aware of the arguments for and against the federation and unitary governments, voiced both before and during the conference, he gave a theoretical exposition on both systems of government, drawing on the American, Australian, Canadian, German, and Swiss constitutions. For him, federalism was a system of divided sovereignty, wherein central governments and state governments exercised independent powers, whereas in unitary states power resided in a single center. In other words, as Nair argued, "If constituent states are strong (*prabalam*; in this context, possess sovereignty) in a federal government (*samyuktakaranam*), the central government is strong in a unitary government (*aikyabaranam*)."⁷⁷

Nair thought it was paramount that people appreciate the differences between these two forms of government, not only for understanding the contemporary debates but also for making informed decisions about the future. In an interesting departure, but true to his local roots, Nair sought to explain the differences between federal and unitary governments through the metaphor of the Nair joint-family system (*tharavadu*), the matrilineal system common to the Nairs of Kerala. He explained that a federal government functioned comparably to how a joint family—with many matrilineal groups united under a powerful yet nominal head (*karanavan*)—administered their common property but made allocations to each matrilineal line, in accordance with the agreements arrived at by the family's members.⁷⁸ A unitary system, on the other hand, was like a *tharavadu*, where the all-powerful *karanavan* unilaterally administered family properties for the common benefit of all.⁷⁹ In fact, in many Nair houses (*tharavadu*) both of these arrangements operated, with or without the *karanavan* playing a dominant role. For C. S. Nair, the

⁷⁶Merve Fejzula, "The Cosmopolitan Historiography of Twentieth-Century Federalism," *Historical Journal* 64, 2 (2021): 477–500.

⁷⁷Vidwan C. S. Nair, "Indiyude Bavibaranam," in *Mathrubumi* Special Issue 1931 (Calicut), p. 29, Appan Thampuran Library, Thrissur, Kerala. All translations are my own.

⁷⁸*Ibid.*, 29.

⁷⁹*Ibid.*

main purpose of the Round Table Conference was to change India's unitary government into a federal one. Quoting Edmund Burke, he suggested that establishing a unitary government "did not require as much intellectual prowess," whereas establishing an "equilibrium" (*samarasam*) between the center and the states in a federation called for "deep thinking" and careful reflection.⁸⁰

While the locus of residuary powers distinguished Australia, Switzerland, and the United States from Canada and Weimar Germany—powers lay with the states in the former group and with the center in the latter—Nair argued that the nature of federal governments in each of these countries was a product of their peculiar "historical vision (*caritra drsti*) and circumstances (*paritastiti*)."⁸¹ However, he thought that in India history and circumstances by themselves were insufficient, for there were equally strong historical and circumstantial reasons that could make both federal and unitary governments compelling choices to Indians. The princely states and the Muslims, he wrote, wanted a federal state, but unitarism was conducive to nationalism and an antidote to communalism and divisive politics. Thus, Nair argued, India could not make the same choices as Americans or Australians had, since her history had led to a present in which there were two strong yet antagonistic and competing ideas. Nair argued that, to reconcile them, Indians needed to think "logically and with a view to the future" rather than historically.⁸² He was unequivocal: "As far as the future constitution of India is concerned, it is not history, but logic should guide us."⁸³

Consequently, the logical solution that Nair arrived at was to combine federal and unitary features in the future constitution—a federalism with unitary features, as it were. The way to move forward was via a central government strong enough to impose a unified currency and tariffs and capable of restraining the autocratic princely states, but within a federal structure. Nair considered the contemporary constitutions of Germany and Austria to be products of moves away from history toward logic. It was logical thinking that had prompted Germany after the First World War to embrace unitary features and move away from its federal model toward a people-centered constitution. On the other hand, after the war Austria moved from a unitary to a federal constitution for "economic upliftment and sociocultural unity."⁸⁴ Thus, Nair found the Weimar history and constitution instructive for Indians, for it showed the strength of logical thinking over historical thinking.

C. S. Nair was not the only Malayali intellectual who thought about India's future government in comparative terms, or who recognized that solutions to the Indian problem could be found not only in India's own history but in logical conclusions arrived at by people of other nations. In the same year, 1931, C. V. Chandrasekharan, Oxford-educated Principal of the Maharaja's College in Travancore, wrote an article for a Malayalam magazine, titled "Federal Constitutions," which discussed the "essential features of a truly federal constitution."⁸⁵ Like many others, he discussed

⁸⁰Ibid., 30.

⁸¹Ibid., 31.

⁸²Ibid., 33.

⁸³Ibid., 35.

⁸⁴Ibid., 36.

⁸⁵C. V. Chandrasekharan, "Federal Constitutions," in *Malayalarajyam* Special Issue 1931 (Quilon), Sri Chithira Thirunal Granthasala, Thiruvananthapuram, Kerala.

the features of leading federal constitutions like those of the United States and Germany, mainly to make the point that “the impulses toward federation are strong common sentiment, economic interest, and urgent political necessity.”⁸⁶ He argued that in the United States the states were impelled toward a confederation in order to fight England, while the appearance of foreign powers in the Pacific had driven Australians to federate, and South Africans were led to write their union constitution by a need to unify the country. He went on to argue that the key features of a true federation were a federal executive (more powerful than the American one), a federal legislature, a rigid and written constitution, and a Supreme Court.

Conceptualizing Comparative Constitutionalism and History in Interwar India

Despite the resurgence in legal-historical scholarship on South Asia, to the best of my knowledge, no work has made any reference to the ways in which various Indians engaged in comparative constitutional thought in the interwar period. This unwritten and underappreciated history of comparative constitutionalism in colonial South Asia presents us with an exciting range of conceptual tools and empirical data with which to question some of the reigning assumptions in the scholarship on comparative constitutionalism there, and perhaps elsewhere. Sunil Khilnani, Vikram Raghavan, and Arun Thiruvengadam say in their field-defining work, *Comparative Constitutionalism in South Asia*, that the origins of comparative constitutional law in South Asia can be traced to the scholarship produced by foreign scholars in the late 1940s and early 1950s. Especially important were the Law Department at the School of Oriental and African Studies (SOAS) in London and the scholars affiliated with it, Alan Gledhill, Duncan Derrett, and Werner Menski.⁸⁷ Khilnani, Raghavan, and Thiruvengadam’s joint introduction to their book is essentially a call to take the constitutionalism of other South Asian countries (basically, the nations of SAARC) more seriously and expand the study of the region’s constitutionalism to encompass more than just that of India.

While independence and drafting of the Indian constitution are watershed moments, a comparative approach to constitutionalism that ignores transnational influences, borrowings, selections, and interwar discourses on Indian constitutionalism must be inadequate. The general lack of awareness about the remarkable comparative thinking among Indian intellectuals and politicians in the interwar period has marred the historical and legal scholarship on Indian constitutionalism in general, and federalism in particular. This is clearest in the fact that, even today, there are few if any works on the Government of India Act of 1935, two-thirds of which found its way into the 1950 republican constitution. Important here are the structure of legal and historical education, coupled with a general aversion toward examining the roles Indian liberals and princes and their advisors—both much ignored and misunderstood groups in Indian history—played in the making of the country’s politics and constitutionalism. Also significant here is

⁸⁶Ibid. (unpaginated).

⁸⁷Sunil Khilnani, Vikram Raghavan, and Arun K. Thiruvengadam, “Introduction: Reviving South Asian Comparative Constitutionalism,” in S. Khilnani, V. Raghavan, and A. K. Thiruvengadam, eds., *Comparative Constitutionalism in South Asia* (Delhi: Oxford University Press, 2015), 4.

the role of a celebratory nationalism, implicit in these accounts, which considers the drafting of the Indian constitution to be the beginning of truly federal politics in India.

According to Sujit Choudhry, comparative constitutional law has, broadly speaking, been used mainly as a resource to help judges interpret constitutions. This includes the use of comparative law *as law*: “the use of foreign constitutions in the process of constitution-making.”⁸⁸ The higher judiciary’s use of foreign laws to adjudicate constitutional issues is a better-known yet controversial aspect of comparative law. In the United States, textualists and conservative judges have been less receptive to foreign law and opposed to what Choudhry calls “migration of constitutional ideas.”⁸⁹ Much of the existing scholarship on comparative constitutionalism in the United States and India dwells on the use of comparative law in legal interpretation.

The theoretical and epistemological questions raised by some of this literature seem related. They all point us to three broad approaches to comparative law: particularistic, universalistic, and dialogical. From a particularistic view, the historical and legal specificities of a nation are such that comparative law serves no useful function. From a universal perspective, by contrast, all laws share universal properties and are hence amenable to interpretation and assimilation regardless of their cultural roots. The dialogical approach, as advanced by Choudhry, is a technique that “stimulate[s] constitutional self-reflection” and helps one recognize the differences between constitutional systems so as to understand one’s own national constitution better. The cultural approach to comparative law advanced by Paul Kahn⁹⁰ and the functionalist and contextual approach put forward by Mark Tushnet⁹¹ cluster around the same set of epistemological questions.

The comparative proclivities of India’s interwar writers prefigure some well-known assumptions in the fields of comparative history and comparative constitutionalism. Their comparative exercises did not take any conception of the nation, or even the nation-state, as a given. They also had different relationships with the empire; some came from autonomous native states and others from areas directly ruled by the colonial state, and stridently argued against nation-states. In the absence of any claim for a nation-state, these writers could stay clear of cultural relativism and take a post-national view. Put differently, they did not consider cultural and national differences to be prerequisites for comparative constitutionalism. Ann Stoler has warned of the dangers of taking national differences as the basis of comparative histories of colonialism and the tendency to reduce “differences in colonial politics” to “European distinctions of national character.”⁹² Instead, comparative colonialism

⁸⁸Sujit Choudhry, “How to Do Comparative Constitutional Law in India: Naz Foundation, Same Sex Rights, and Dialogical Interpretation,” in Sunil Khilnani, Vikram Raghavan, and Arun K. Thiruvengadam, eds., *Comparative Constitutionalism in South Asia* (Delhi: Oxford University Press, 2015), 57.

⁸⁹Sujit Choudhry, *The Migration of Constitutional Ideas* (Cambridge: Cambridge University Press, 2007).

⁹⁰Paul W. Kahn, “Comparative Constitutionalism in a New Key,” *Michigan Law Review* 101, 8 (2003): 2677–705.

⁹¹Mark Tushnet, “Some Reflections on Method in Comparative Constitutional Law,” in Sujit Choudhry, ed., *The Migration of Constitutional Ideas* (Cambridge: Cambridge University Press, 2007), 67–83.

⁹²Ann Laura Stoler, *Carnal Knowledge and Imperial Power: Race and the Intimate in Colonial Rule* (Berkeley: University of California Press, 2002), 141.

should engage with the “strategies of rule” and “politics of knowledge,” or how categories and assumptions were created in the service of colonialism.⁹³

For comparative thinking around future constitutions, as opposed to comparative thinking for constitutional interpretation, cultural and national differences are sometimes less important. Rather, it is premised on the belief that every successful constitution, old or recent, has lessons to offer those designing new ones, provided there are certain circumstantial similarities across the respective histories and political systems. Almost all of the comparative approaches to constitutionalism we have looked at from the 1930s demonstrate this. Despite India’s unique circumstances, produced no less by Manichean colonial rule, many contemporary observers saw value in conversing with the pasts and presents of countries like the United States and Germany. Especially so those who were looking for constitutional models to accommodate the claims of the princely states. They thought that the circumstances surrounding the states in Germany, and its tradition of safeguarding states’ rights, had much to offer toward the successful resolution of the Indian problem. Thus, beyond the historical and cultural factors, it was the presence and claims of the princely states, a circumstantial fact, that drove the push toward comparative constitutionalism in this early phase.

Indian intellectuals did not conceive of federalism or federation as a monolithic category. There was neither conceptual fixity nor united agreement on what federation meant in India. It remained a supremely ambiguous concept even as some made arguments for or against it at the Round Table Conference. Federalism, much like internationalism, could have been a “cluster-concept,” one to which “a number of ideas are conventionally associated without any single one or group of them constituting a core meaning.”⁹⁴ Despite its ambiguity and fluidity, federalism was one metahistorical category that allowed Indian intellectuals to relate to the histories and constitutions of other countries. Federico Brusadelli has shown how certain Chinese intellectuals and warlords in the early twentieth century looked up to Switzerland as a federal model, only to discard it in the end as a “utopia” in favor of a more centralized state.⁹⁵ Many of these Chinese intellectuals saw federalism in terms of specific aspects—such as local loyalty and provincial independence—and cared little about its other features. This was also the case among those Indian writers who focused more on states’ rights, insofar as they considered federalism a malleable concept that allowed them to selectively appropriate and translate a nation’s history and constitution to suit their own claims. As Philippa Levine has argued, one of the major points of criticism of comparative history has been that it relies on metahistorical categories.⁹⁶ But this critique is problematic, since Levine herself shows that comparatists also make equal use of non-metahistorical categories that are local or decentered. Vernacular writers like C. S. Nair domesticated federalism for their readers, employing the metaphor of Travancore’s matrilineal family system. In these comparative discourses, local idioms and history were actively mobilized to contextualize and recontextualize metahistorical categories like federalism. By means of a comparative and “intersecting history” we can move past the problem of what

⁹³Ibid., 141–42.

⁹⁴Fred Halliday, “Three Concepts of Internationalism,” *International Affairs* 64, 2 (1988): 187–98.

⁹⁵Federico Brusadelli, “Swiss Enchantment: Modern Chinese Intellectuals and a Federal Utopia,” *Asian Studies* 9, 2 (2021): 145–64, <https://doi.org/10.4312/as.2021.9.2.145-164>.

⁹⁶Philippa Levine, “Is Comparative History Possible?” *History and Theory* 53, 3 (2014): 331–47.

Mrinalini Sinha calls the “simultaneous indispensability and inadequacy of European concepts.”⁹⁷ The comparative focus on federalism helped Indian writers accept certain foreign ideals and principles and modify them for Indian conditions, but it also allowed authors like Prasad and Sharma to claim that India had possessed its own version of federalism for centuries.

The comparisons between India and Europe in these accounts did not elevate one unit of comparison over another. There is no apparent non-critical acceptance of any foreign models simply because they were foreign or Western. Differently put, it was a comparative approach with a prepositional emphasis: comparison *of* and not *to*.⁹⁸ Comparing histories and political conditions in India and Germany, for instance, did not presume any hierarchical relationship in which one was the standard and the other the aspirant or deviant. This is similar to the “reciprocal comparative method” that Kenneth Pomeranz employed in his famous study *The Great Divergence*. Instead of viewing either side as the standard or the deviation, he saw “both sides of the comparisons as ‘deviations’ when seen through the expectations of the other.”⁹⁹

At one level, comparison, whether of history or of law, is self-serving; some kind of self-interest sits at its core, more so in the context of comparative constitutionalism. Yet, the value of comparative analysis almost always transcends this self-interest. As Martha Nussbaum says, the comparative approach brought to bear on constitutionalism helps one understand that one’s own way of doing things is not the only way.¹⁰⁰ This leads us to ask why we do certain things in certain ways as opposed to others, which in turn can lead us to realize that there are no natural ways of doing things but only ways that result from our deliberate choices. Thus, to a certain extent, comparatists are rationalists and maintain a critical attitude toward history. A country’s political system or ethical values cannot be seen as historical contingencies or mere habits that defy explanation. They are a result of considered choices, no doubt shaped by history but not always subservient to it. This is precisely the kind of comparative outlook that C. S. Nair, a Malayali intellectual, espoused toward constitutionalism. Constitutions and political systems were not to be designed from historical insights alone. He argued that the interwar constitutional changes in Austria and Germany clearly showed the need to move beyond the tyranny of history and embrace logic and reason. Comparative constitutionalism and comparative history are both susceptible to certain basic interplays that characterize the discipline of history: between history and reason, or structures and actions.

The comparative turn in interwar India took place in a global context. Beni Prasad opened his study this way: “Since the close of the World War in 1918, the framing and alteration of Instruments of Government have formed one of the most notable features of political life in Europe.”¹⁰¹ He went on to talk about similar changes in the rest of the world, from China to the United States. This global resurgence in

⁹⁷Mrinalini Sinha, *Specters of Mother India: The Global Restructuring of an Empire* (Durham: Duke University Press, 2006), 15–16.

⁹⁸Levine, “Is Comparative History Possible?” 340.

⁹⁹Kenneth Pomeranz, *The Great Divergence: Europe, China, and the Making of the Modern World Economy* (Princeton: Princeton University Press, 2000), 8.

¹⁰⁰Martha C. Nussbaum, “Introduction to Comparative Constitutionalism,” *Chicago Journal of International Law* 3, 2 (2002): 429–34.

¹⁰¹Beni Prasad, *A Few Suggestions*, 1.

constitutionalism, when nations looked abroad for models and lessons in state-making and constitution-modeling, forms a necessary context for the comparative turn in interwar India. Donal Coffey's work on the drafting of the Irish Constitution of 1937 directs us to the formative impact transnational constitutional ideas had on its composition. In particular, he examined the role played by German, Polish, and Portuguese constitutional ideas.¹⁰² Coffey's work is instructive as to the ways in which transnational constitutionalism was an inherent aspect of constitution drafting in many parts of the world during this period. The growing importance of treaties in interwar Europe (especially after the Kellogg-Briand Pact of 1928) and their ripples in India, along with a general turn toward international conferences and organizations, configure another global context for the comparative turn. The princely states employed some of the finest lawyers in England, Germany, and the United States to represent their cases in the federal debates around the Government of India Act of 1935. These men brought with them a different worldview of law and rights and challenged both colonial and nationalist views on India's future constitution.

The traffic in federal ideas between Germany and India took place in the margins; they were part of neither mainstream anticolonial nationalism nor revolutionary internationalism, and consequently they had less impact. Yet, German constitutional ideas had a significant impact on how the princely states and Indian Muslims saw the future federation. The idea of states' rights, wherein each state enumerates the subjects that they agree to cede to the center, as well as the differential representation princely states had in the federal legislature, were shaped by German theory. The legal memorandums of Bruns and Bilfinger, the German lawyers the Chamber of Princes hired, articulated a theory of safeguards that would remain with the princely states, big and small, throughout the 1930s and 1940s. The Reforms or Federation Department is full of files pertaining to each princely state negotiating what subjects they would cede to the center. These secretive, behind the scenes negotiations between the states and the British went on for years, even as they failed to bring about the federation. The Indian nationalists still accepted the idea of an instrument of accession that enumerated the powers of the central government. One can see the ideological influences of German state theory in the federalist advocacies of the princely states and in the instruments of accession that followed.

Regardless of whether German ideas generated tangible results, that these entanglements and comparative efflorescence existed in the constitutional and federal imageries of interwar India is significant in itself. They force us to view the history of Indian constitutional, legal, and political thought in a new light, beyond the confines of progressive nationalism or internationalism. In the constitutional realm, even nationalist-minded thinkers and jurists saw value in German lessons. B. N. Rau, the chief draftsman of the Indian constitution, while compiling the world constitutions, saw the "logical" nature of the Weimar constitution as C. S. Nair himself did.¹⁰³ Donal Coffey has shown us that Weimar constitutionalism impacted Indian thinking on the balance of central and state powers, and on fundamental

¹⁰²Donal K. Coffey, *Drafting the Irish Constitution, 1935–1937: Transnational Influences in Interwar Europe* (Cham: Palgrave Macmillan, 2018).

¹⁰³B. N. Rau, *Constitutional Precedents (Second Series) Selected Constitutions* (New Delhi: Government of India Press, 1947), 236.

rights and state powers.¹⁰⁴ It was not just conservative groups like the princes and Muslims who turned to Germany, but also progressives like the nationalists.

There is inherent globalism in the comparative turn if by “global” we mean heightened levels of integration and interdependence. As Sebastian Conrad says, the world of 1873 was less integrated and global than that of 1929, marked by a different “quality of entanglements.”¹⁰⁵ Or, as Bruce Mazlish would observe, the social density, frequency of interaction, and overall levels of interdependence and interconnectedness in the two periods were quite different, suggesting different levels of globality.¹⁰⁶ For Conrad, comparative history, the comparison of two units, does not in and of itself mark the global unless we put the respective units into “systemic contexts” to which they both “relate and respond.”¹⁰⁷ Further, the structural grounds on which these comparisons or connections take place will, in turn, affect the practices that constitute the connections. That is to say, whether the structure is one of colonialism, or nationalism in a free state, will bear on the kinds of ties forged. What does the structure of colonialism tell us about the influence transnational constitutional ideas had on the rise of Indian federalism in the late 1920s and early 1930s? For one thing, the absence of a unified national or homogenous space called the nation-state made these transnational borrowings less ideologically fraught. The empire, with its immense diversity and legal pluralism, did not permit easy identification of people as friends and enemies in the Schmittian sense. There was no uniform history that people either claimed or resisted. Moreover, each Indian group in the 1930s existed within circumstances that made them unique, be it their claims to sovereignty or the lack thereof. These various factors mean that the comparative constitutional imaginaries around federalism in the period were historically and structurally different from those in the 1950s around the free constitution of India.

If “global” is a kind of context and structure, then comparative constitutionalism in interwar India was inflected by it. Yet “global” and “comparative” coexist in utmost tension, and neither can stand for the other. As should be evident from what I have written here, “global” and “comparative” are analytical categories as much as empirical facts. For Siep Stuurman, the global as an analytical category is defined by the space and time of the analysis itself. One might say that the global is immanent to the analysis here. Paraphrasing his work, Samuel Moyn and Andrew Sartori write, “What makes [Stuurman’s] approach global is not the geographical spread of the concept or thematic but the fact that a comparison between geographically constrained spaces is possible even without a connection between them.”¹⁰⁸ Comparisons are, first and foremost, analytical approaches. Comparison need not rest on similarity, nor should commensurability between units mean substantive similarity. The undertone of Marxian commodity theory and its approach to universal commensurability is an inescapable reference here. Whether comparative lenses help us see similarities or differences, what they should do is help us

¹⁰⁴Donal K. Coffey, “The Influence of the Weimar Constitution on the Common Law World,” *Rechtsgeschichte—Legal History* 27 (2019): 222–30, <http://doi.org/10.12946/rg27/222-230>.

¹⁰⁵Sebastian Conrad, *What Is Global History?* (Princeton: Princeton University Press, 2016), 13.

¹⁰⁶Bruce Mazlish, *The New Global History* (New York: Routledge, 2006).

¹⁰⁷Conrad, *What Is Global History?*, 44.

¹⁰⁸Samuel Moyn and Andrew Sartori, “Approaches to Global Intellectual History,” in Samuel Moyn and Andrew Sartori, eds., *Global Intellectual History* (New York: Columbia University Press, 2013), 7.

understand the structures on which comparisons take place. In that sense, both the global and the comparative share a common endeavor, to reveal connections while also elucidating structural specificities constituted by historically specific practices.

Conclusion

This article has offered an account of selective appropriation and recontextualization of German constitutional thought and history in interwar imaginations about federal India. Those who imagined federal India in the image of Germany did so for political as much as constitutional reasons. That is not to say there is no difference between politics and constitutionalism, but rather to show, as Carl Schmitt observed, that there is no pure theory of constitutions and that constitutions reflect the political preferences of the groups in question. The presence of the princely states in the German Empire, and the constitutionalizing of their relationship with the central authority under the twin framework of empire and federation, greatly appealed to the Indian princely states. Constitutionally speaking, the British colonial state was a unitary state based on the supreme authority of the parliament. The princes and minority communities feared that this unitary model would deprive them of their regional independence or particularism. From that perspective, the allure of German ideas seems unsurprising. Here I have mostly focused on Indian treatments of Germany that are substantial rather than impressionistic or fragmentary. Passing references to Germany in newspapers and magazines are far too numerous, fragmentary, and rhetorical to coherently explain why many Indian federalists turned to Germany. The interwar federalists had moved beyond seeing Germany as a metonym for federalism and articulated an alternate worldview about the problem of India, one in conflict with the nationalist view of a future India based on democracy and individual rights.

Germany's role in Indian imaginations acts as a counter-narrative to nationalist and liberal accounts of the country's founding. Madhav Khosla's recent study of India's founding moment, for example, brings the nationalist perspective on the Indian problem back in.¹⁰⁹ While Khosla's point of departure is the claim that the Indian (nationalist) response to the Indian problem through democratization has not been given its intellectual due, the present article offers a different intellectual and comparative genealogy of the Indian problem: that of Indians who found solutions to the problem—how to manage differential claims to sovereignty and perspectives on center-state relations—by borrowing ideas from German history and constitutionalism. These German lessons were far removed from any democratic solution to the problem. In resonance with Heinrich von Treitschke, who thought that, as an Indian commentator noted in 1915, “the individual composing the State exists for it, not *vice versa*,”¹¹⁰ princes and their advisors considered the state to be the entity that must command worship from individuals. Those who looked to Germany followed no individual-centric approach, which Khosla sees to be central to the

¹⁰⁹Madhav Khosla, *India's Founding Moment: The Constitution of a Most Surprising Democracy* (Cambridge: Harvard University Press, 2020).

¹¹⁰Kishnanandan Prasad, “The Spirit of Modern Germany,” *Modern Review* 18, 2 (1915): 146–52. For more on von Treitschke, see Karl H. Metz, “The Politics of Conflict: Heinrich von Treitschke and the Idea of ‘Realpolitik,’” *History of Political Thought* 3, 2 (1982): 269–84.

nationalist vision. We have seen that the allure of imperial Germany lay in its opposition to parliamentary government based on the will of a numerical majority.

The turn away from English constitutionalism was a general phenomenon in the interwar period, although princes and their advisors and certain conservative British officials were particularly important in this regard. A leader in the *Statesman* expressed this sentiment succinctly: “[It] is this increasing distrust of parliamentary government which is making an all-India federation a necessity.”¹¹¹ Thinking about India’s constitutional future by drawing lessons from the histories and constitutions of other nations was not a feature of city-bred or English-educated intellectuals and politicians. Vernacular intellectuals in the Malayalam public sphere (just one of the many in the multilingual country) were equal participants in this comparative exercise, even as the structures they inhabited were not quite the same, for the princely states were autonomous, yet sub-sovereign, and indirectly colonized territories. These structural differences are also evident in the worldviews, or the textual registers, idioms, and metaphors, used to explain federalism. Yet, the language of comparative thought and history united them with writers and thinkers elsewhere in India in their vision of a federal India. Thus, comparative constitutionalism is also a useful lens through which to assess the rise of federal thinking in vernacular languages such as Malayalam.

For South Asian scholars, this early history of comparative constitutionalism might present a new question insofar as, at least in the 1930s, we see a growing tendency among conservative groups such as princes and their advisors, conservative British officials, and certain Muslims, to look for models outside England. This is best exemplified by the pull of imperial Germany in these discourses. The comparative turn in the 1930s raises the question of whether strong ties to particularism, or a form of conservatism shaped by aversion to radical changes or excessive rationalism in politics (*à la* Michael Oakeshott), were more amenable to comparative constitutionalism than was an attachment to democratic political traditions and a progressive belief that radical changes could not be scripted in advance. Were India’s conservatives more outward-looking and receptive to transnational and comparative influences than were progressivists and nationalists who were committed to inheriting an English style of government? This article suggests that they were.

Much of the scholarship on comparative constitutionalism in South Asia begins with the founding of free India, and this indicates the degree to which nationalist ideas continue to dominate the region’s legal history. Non-national or post-national ideas of constitutionalism still find few takers. The princely political thoughts on states’ rights supplied a ground upon which the nationalists could refine their ideas of national unity, popular sovereignty, and unitary government and espouse a constitutional vision rooted in fears of secession. Yet, we have almost no accounts of the legal history of the princely states. This is clearest in the *Handbook of Indian Constitutionalism*, a two-thousand-page book that makes no mention of the colonial history of federalism or the roles princes and their advisors played in late colonial India’s constitutional history. The Indian federalists and their vision for a federal India upset the teleological narratives of Indian constitutionalism. There was neither a standard model for fashioning India nor a fixed endpoint in India’s constitutional evolution, all through the 1930s and 1940s. While the desire to make comparative

¹¹¹“Princes and Federation,” in the *Statesman* (overseas weekly), 18 June 1931: 2.

constitutionalism in South Asia mean more than Indian constitutionalism is laudable, engagements with other South Asian countries and their constitutional cultures may run into the dangers of national comparisons, with nation-states being taken as natural, pre-given entities. The efflorescence in comparative thinking that this article has explored reveals early origins of a form of comparative thinking, one that was truly post-national.

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